R166/R271

DIRECTORATE OF DISTANCE EDUCATION

P
U
B
L
I
C

A
D
M
I
N
I
S
T
R
A
T
I
O
N

M.A., SECOND YEAR

PAPER - VII

HUMAN RIGHTS

(COMMON TO
M.A. POLITICAL SCIENCE - PAPER - V)

MADURAI KAMARAJ UNIVERSITY
Madurai - 625 021.

All copyright privileges are reserved

KANCHANA OFFSET PRINTERS

3, Sudalai Muthupillai Lane,

Kamarajar Salai, Madurai-9.

Phone : 99527 26083

Copies : 1000 Year - 2007

The Department of Public Administration welcomes you for the second year. In this year, you are having an interesting paper namely, Human Rights. The purpose of democracy is to protect the human rights and facilitate for a good environment for human life. For your convenience, the subject is divided into 20 lessons. Make use of contact seminar classes organised by our Directorate and clarify all your doubts in this lesson.

Wish you all the success.

DEPARTMENT OF PUBLIC ADMINISTRATION

M.A. Public Administration (Non-Semester)

(To come into effect for students joining the course from the academic year 2005-2006)

Paper VII - Human Rights
Syllabus

Unit 1

Meaning, Nature and Definition of Human Rights - Historical Development - Characteristics of Human Rights -Theories of Rights - Rationale of Human Rights.

Unit II

International organisations and Human Rights: U.N.O. Universal Declaration of Human Rights - Amnesty International - European commission on Human Rights - Asia watch.

Unit III

Indian Constitution and Human Rights · Fundamental Rights and Duties - Directive Principles of State policy - Civil and Political Rights.

Unit IV

Issues in Human Rights · Capital punishment - Bonded Labour and wages - Female infanticide - Right to Dissent - SC and ST.

Unit V

Women's Rights - Children's Rights - Refugee's Rights - Human Rights Machinery in India - National Human Rights commission - State Human Rights Commission.

Reference Books :

1. Sinha, Pet al, Global Source Book on Human Right in 3 Volumes, Kanishka Publisher and Distributors - 2002.
2. G.S. Bajwa, Human Right in India, New Delhi, Anmol Publications (P) Ltd., 1995.
3. V.V. Devasia and Devasia, Leelamma, Human Rights and Victimology, Nagpur, Dattsons, 1998.
4. R. Thilagaraj, ed, Human Rights and Criminal Justice Administration, New Delhi Publishing Corporation - 2002.
5. Paul, R.C. Situations of Human Rights in India Efficient Offset Printers - 2000.
6. Mishra Pramod, Human Rights Global issues - Kalpar Publications - 2000.

SYLLABUS V

(To come into effect for students joining the course from the Academic Year 2005-2006)

HUMAN RIGHTS

Unit I

Meaning, Nature and Definition of Human Rights - Historical Development - Characteristics of Human Rights - Classification of Rights - Theories of Rights - Rationale of Human Rights.

Unit II

International orgnisations and Human Rights - U.N.O. - Universal Decleration of Human Rights - Amnesty International - European Commission on Human Rights - Asia watch.

Unit III

Indian constitution and Human Rights : Fundamental Rights and Duties - Directive Principles of State Policy - Civil and Political Rights.

Unit IV

Issues in Human Rights - Capital punishment - Bonded Labour and wages - Female infanticide - Right to Dissent - SC and ST. Right to Development.

Unit V

Women's Rights - Children's Rights - Refugee's Rights - Human Rights - Human Rights machinery in India - National Human Rights Commission.

Unit V

Women's Rights - Children's Rights - Refugee's Rights - machinery in India - National Human Rights Commission.

Reference Book

Sinha, P. etal Global Source book on Human Right in 3 volumes, Kaniska publisher and Distributors, Bangalore 2005.

HUMAN RIGHTS - SCHEME OF LESSONS

Lesson No.	Topic
1.	Meaning Nature and Definition of Human Rights
2.	Historical Development of Human Rights
3.	Characteristics of Human Rights
4.	Theories of Human Rights
5.	Rationale of Human Rights
6.	U.N.O. - Universal Declaration of Human Rights
7.	Amnesty International
8.	European Commission on Human Rights - Asia Watch
9.	Indian Constitution and Human Rights; Fundamental Rights and Duties
10.	Directive Principles of state policy
11.	Capital punishment
13.	Female infanticide
14.	Right to Dissent
15.	Rights of Scheduled Caste and Scheduled Tribes - Right to Development
16.	Women's Rights
17.	Children's Rights
18.	Refugee's Rights
19.	National Human Rights Commission
20.	State Human Rights Commission

Lessons Compiled by
Dr. T. Kalyani,
Professor & Head (Rtd.)
Dept. of Political Science
M.K. University, Madurai.

LESSON 1

INTRODUCTION TO HUMAN RIGHTS

The origin of human rights can be traced to the principle of Natural law. Natural law and human rights reside inherently from the birth of human rights in the society. These rights must be recognized by the society. The human rights are inalienable. It is enjoyed in whole by the individual.

The study of human rights occupies a very important place in the disciplines of Public Administration and Political Science. Human rights are regarded as basic principles in the functioning of democracy. In the international level also human rights occupies a very important place. For every individual at the national and international level human rights are essential. It must be preserved and protected.

The term human rights indicates both their nature and their source: they are the rights that one has simply because one is human. They are held by all human beings, irrespective of any rights or duties one may (or may not) have as citizens, members of families, workers, or parts of any public or private organization or association. In the language of the 1948 declaration, they are universal rights. If all human beings have them simply because they are human, human rights are held equally by all. And because being human cannot be renounced, lost or forfeited, human rights are inalienable. Even the cruelest torturer and the most debased victim are still human beings.

What exactly does it mean to have a right? In English "right" have two principal moral and political senses. "Right" may refer to what is right, the right thing to do. Thus we say that it is right to help the needy or wrong (the opposite of right) to lie, cheat, or steal. "Right" may also refer to a special entitlement that one has to something. In this sense we speak of having, claiming, exercising, enforcing, and violating rights. There are many things to which people do not have a (human) being to have or enjoy, for example, to be treated with consideration and respect by strangers or to have the chance to develop one's artistic abilities.

Both rights and consideration of righteousness create relations between people who have a duty and people who are owed or benefit from that duty. Rights, however, involve a special set of social institutions, rules, or practices. Rights place right holders and duty

bearers in a relationship that is largely under the control of the right holder, who ordinarily may exercise his right more or less as he sees fit. Furthermore, claims of rights ordinarily take priority over ("trump") other kinds of demands, such as utility or righteousness.

Rights do not have absolute priority over other considerations. They do, however, ordinarily take prima facie priority Right holders do not have absolute discretion in how they exercise their rights. Discretionary exercise, however, is a central and distinguishing feature of rights In fact, the power and control of rights in ordinary circumstances are precisely what makes them so valuable to right holders.

Human rights are a special type of right. In their most fundamental sense, they are paramount moral rights. Human rights are also recognized in international law. Most countries also recognize many of these rights in their national constitution, legislation, or legal practice. As a result, the same "thing" for example, food, protection against discrimination, or freedom of association often is guaranteed several different types of rights.

One "needs" human rights principally when they are not effectively guaranteed by national law and practice. If one can secure food, equal treatment, or free association through national legal processes, one is unlikely to advance human rights claims. One still has those human rights, both they are not likely to be used (as human rights), for example, in the United States racial discrimination is prohibited by both constitutional and statutory law. Protection against discrimination is prohibited on the basis of sexual preference is much less clearly established in most jurisdictions. Therefore, gay rights activists claim a human right to non-discrimination with considerable frequency. Racial minorities, by contrast, more often claim legal and constitutional rights "civil rights".

The language of human rights is fundamentally that of the oppressed or dispossessed The principal use of human rights claims is to challenge or seek to alter national legal or political practices. Claims of human rights thus aim to be self-liquidating. To assert one's human rights is to attempt to change political structures and practices in ways that will make it no longer necessary to claim those rights (as human rights).

Human rights thus provide a moral standard of national political legitimacy. They are also emerging as an international political standard of legitimacy. Only when citizens no longer need to assert their human rights regularly against their government is that government likely to be considered legitimate in the contemporary world.

Human rights are fundamental rights, which are very much essential for leading a normal life in the society, because it provides the individuals the freedom to have comfort and happiness. Rights are conditions of social life in the society. Rights only help every man to achieve freedom. These rights are guaranteed by the state. Another important fact here to be noted here is rights are not absolute and are subject to reasonable restrictions.

For systematic comparative analysis, a careful conceptualization of rights needs to be undertaken, the distinction is between civil liberties, civil rights, and human rights. Civil liberties refers to rights of persons vis-à-vis government. These include freedom of speech, freedom of association and assembly, freedom of religion, rights of conscience, and rights to due process under law.

Civil rights in the United States is identified with the struggles of black and other ethnic minorities for equal participation in the political and social life of the country. In early writings and in some comparative work, civil liberties and civil rights are used interchangeably. Human rights refers broadly to civil rights and to civil liberties, but also to a wide range of emerging rights that include housing, jobs, and health services. Conceptual definition has its corollary in the area of operational definition.

Various social researchers have used a wide variety of operational definitions and different indices or scales, to define the abstract concepts of human rights. Gerald Laski in his 1961 survey of Detroit, Michigan, used four questions concerning freedom of speech as part of a long interviews. Laski also asked respondents whether they felt the government should make laws forbidding gambling, or moderate drinking, birth control, and Sunday business. In 1954, Samuel Stouffer relied on open –ended questions to summarise given options. Stouffer combined the answers to obtain scales of attributes towards civil liberties. Much of the research conducted in the United States has focused on the subject of support for the Constitution and has shown some relation between social class in America in the post-revolutionary era and desire for strong or limited government, depending upon the perceived self-interest of different social classes.

LESSON 2

DEVELOPMENT OF HUMAN RIGHTS

The Doctrine of "natural rights" or "the rights of man" is codified in the writings of eighteenth century philosophers. The documents of the American Revolution, including the Declaration of Independence and the Declaration of Rights of Man of 1789, are of particular importance in the history of human rights, for they stated in formal terms the universal conception of right – that all men have rights vis-à-vis the government of a state. It remains to be seen whether the United Nations Universal Declaration of Human Rights of 1948 will be equally important in the development of the concepts of human rights.

There has been expansion of the scope of topics considered under the heading of human rights. In the fiftieth anniversary of the American Civil Liberties Union, separate chapters are devoted to a long list of rights never explicitly mentioned in eighteenth century documents. They, include equal educational opportunity, equal employment, housing, welfare, legal services, surface, participation in politics, protest, free association, publishing, access to mass media, property, religious liberty, control of the use of one's body, and travel. This list is by no means complete, however, especially for industrialised countries with democratic forms of government. For example, the right to decent environment quality and the right to privacy are omitted, yet court cases and legislation designed to protect these rights are rapidly developing, at least in the United States and Canada.

Even when identified and guaranteed by laws. Constitutions, or creeds, and reaffirmed by court decisions in test cases, rights (which often conflict with one another) are difficult to define in actual practice and more difficult to implement. The articulation of human rights on a worldwide basis has barely begun. The 1948 United Nations Declaration is not universally accepted by member nations as a programme of rights, and even those rights upon which there is wide conditional consensus are not universally implemented. In all circumstances, for defining the content of human rights, prevention of their violation and infliction of punishment on those who violate these, it is necessary that there should be rules, laws and institutions. This requires evolution of a human rights legal system.

The International ramifications of the problem of jews, the causes of First and Second World Wars and the jews, the later East and West conflict of 'cold war', all have contributed to the development and maturing of human rights concept. In fact, academically at least, 'human rights' have emerged out of international law while fundamental liberties had found their existence in the conflict between the State and the people. The causes of Glorious

Revolution of England of 1688, French Revolution of 1789 or American Declaration of Independence of 1776, are the foundation of the liberties of people that became ultimately the reason for existence of States. Marxist onslaught through the Russian Revolution of 1917 and the Chinese civil war of 1949 on the capitalist economy of West, led to the development of welfare concept. The public welfare concept as a duty on the States leads to positive actions to be taken by the government for the protection of civil liberties and economic and social uplift of people. The human rights system is actually entrenched in this evolutionary State-people relationship based on the concept of natural rights of eighteenth century political philosophy.

The regimes of Hitler's Nazi Germany or Mussolini's Fascist Italy inbetween the two World Wars are regarded to have been worst kind of States from the point of view of human rights. Now since the United Nations Organisation has come into existence since 1945, there have been efforts to overlap the civil rights with human rights. The U.N. Declaration on Human Rights, 1948, has induced more than 100 of its 191 members to give constitutional protection to the civil liberties of the people. With scores of international Court, constitutional documents of States, the judgements of national courts and the activities of human rights commissions, the human rights regime appears to have acquired a substantive or identifiable body.

In the twenty-first century, the matters connected with promotion or protections of human rights occupy prominent news-making position. The problems created by ethnic conflicts, racial or gender discrimination, xenophobia, hunger and starvation, torture of crime suspects, sufferings of refugees, of mental agony of persons on hi-jacked airplanes or irrelevant killing of people by terrorists are some of the many peace-time occupations of human right regime. It is the acceptance of the existence, perception or reality of a regime of human rights that the States, international organisations and the people now do take interest and sharply react to the deprivation of human rights anywhere taking place in the world. This phenomenon shows the present status of the human rights as a system.

India has been quite in the line of respecting and enforcing the concepts which stand for human rights. It was first to raise the question of racial discrimination in South Africa, at the United Nations in late 1940s. Within the country, the Part III of the Constitution of India, 1950, has given all people including non-citizens found on Indian territories the freedom of religion, personal liberty and the right to equality. Citizens have been additionally given six 'right to freedoms', freedom of speech and expression, etc., under Article 19 of the Constitution. Every person has the right to approach the High Courts and the Supreme Court under their writ jurisdiction for enforcement of fundamental and human rights.

Government has also constituted a statutory National Human Rights Commission, which acts like a watchdog for any complaints of human rights violation, vide, Protection of Human Rights Act, 1993. It acts *suo moto* also for protection of human rights, like police atrocities, massacre of people by private armies, social illtreatment of people on caste or religion basis, poverty led starvation, and so on. Under the Act "human rights" means 'the rights relating to the life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in International Covenants and enforceable by courts in India.'

There has been some discussion of whether attitudes upholding the principles of the bill of Rights have ever been held by a majority of American citizens and whether or not such support has been declining since the 1930s. A 1970 television presentation, reported the results of a national sample survey commissioned by CBS news was entitled "would It (the Bill of Rights) Pass Today? In this survey of 1,136 randomly selected American adults a number of finding seemed starling. For example, 76 per cent believed that protest demonstrations should not be allowed. In 1957, in a study of students at the university of California at Berkeley, Hanan Selvin and Warren Hagatrom constructed a unidimensional scale embodying principles derived from the American Bill of Rights. In their words: It is easy enough to support liberty as an abstract idea or even a set of specific privileges such as are embodied in the Bill of Rights. But this support may be meaningless if it disappears whenever the values of individual liberty come into conflict with other values, as they inevitably do.

The roots of human rights are found in the ancient cultures, to say it is not totally a modern concept It has the origin and both at the national level and also at international level. In the national level religion form the basis of the origin of human rights. Vedas makes reference to human rights. Where as in international level of Greek and Roman law attached importance to natural justice. Some of the Charters of liberty are taken towards the realization of human rights. They are Magna Carta of 1215, Petition of Rights 1628, Bill of Rights of 1689, and so on. Coming to the modern conception of human rights particularly during 17th and 18th centuries this concept originated. State exists to protect the interest and rights of its members. Social contract theory of 17th century explained the concept of human rights. The American Revolution period since 1763 to 1788 is a period of constructive ideas. During the period of the Declaration of independence of U.S.A., Bill of Rights of Virginia, the constitution of Pennsilvania, with the declaration of their primary rights, witnessed the march on the highway of human rights.

Then comes the French Revolution. This is based on the principles of human rights. This declaration of liberty and human rights proved to be a milestone in the development of human rights. French Declaration recognized the Rights to human beings, the western and eastern European countries, Asian countries rather all the world countries recognized human rights. We must understand that rights were not rights that could be enjoyed by an Individual as of right but these are regarded as inherent rights of a person. Of course, Absolute kings or autocratic kings were not concerned with human rights. kings duty is to defend the subjects. As time went on benevolent ruler granted privileges to the people. In this the earliest one was Magna Carta.

The international Declaration has proclaimed many rights as Human Rights. India has started recognizing the human rights since 1947. The Indian Constitution has included many of the human rights, which are universally recognized. If there is the violation of Human Rights, an independent Judiciary will play the role of securing or protecting the people that human rights are not isolated by the government, by their servants or by the agents. The aggrieved party can always seek the help of Judiciary. The fundamental basis of human rights is to establish an egalitarian society. In the modern society every one wants to live as a full human being, with full dignity. This dignity he can achieve, if he gets adequate food shelter, education and so on. The twenty-first century is slowly bringing an end to dictatorship and totalitarianism. There is positive thinking about the future of humanity and human rights. 21st century will be an age of peace and people have increased belief in democracy and freedom. Such a lofty conception of freedom and human rights will be the concern of the present era. The important factor of human rights is its awareness among the citizens. It is already seen how the different Charters created the human rights. The rights are here in a person and the possession of rights that one becomes a person in law.

In the ancient Greek world the idea of personal freedom was not known. Greek notion of freedom was anti-democratic. For knowing about the personal freedom we must turn to western traditions. The concept of personal freedom was born only in the west. First freedom of conscience and belief has been formulated which led to the freedom of religion. Later the right to personal property was brought in after passing of the charters. The western concept of personal freedom grew out of material and spiritual sources and also law and jurisprudence developed to protect the personal rights.

Between 18th and the 21st century there were changing perceptions of human rights. This brought change in nature and scope of human rights. During the 19th century there was a shift in the nation of rights. The natural rights led to civil liberties. The personal rights led to rights of participation. Coming to 20th century President Roosevelt proclaimed four

freedoms, this also a change in the concept of human rights. The main freedom here is freedom of expression. The second is the freedom of participation, the third and fourth are freedom from fear and freedom from work. The twentieth century gave human rights an economic content. In the evolutionary process the rights which began as a self-assertive variety became self-participatory. Some rights became self-developing rights.

In the earlier era threaten to human rights could be seen, because of the despotic kings. But the French and American Revolution brought change with stress on liberty. In the developing countries face acute subversions of human freedoms because of internal contradictions and turmoil. There are the problems of ethnicity, religion and region in developing nations. At present at the national and international level utmost importance is given to human rights.

In India

The term "Dharma" etymologically means which upholds, supports and nourishes the society. It maintains stability of the social order and promotes well being and progress of the mankind. It relieves from ignorance, fear, disease and other evils and cherishes and moulds fellow feeling brotherhood and amity and other good feelings. It influenced substantially social, economic and political life and seemed to have moulded and welded into a social order.

The principles of Dharma show that human rights are valuable and eternal. These are identified and are recognized in India. Civilization from time immemorial as the basic conditions for peaceful and progressive life. These are the values included in the human rights subsequently incorporated in the Universal Declaration of Human Rights and also in various Fundamental Rights contained in Part III of the Constitution of India.

Dharma was deeply intermingled with political, economic and social activities. The various purposes of state administration or government were to ensure smooth functioning of Dharma and economic and spiritual well being of the individual. The King or Head of the State was mainly responsible for providing adequate facilities for material advancement and also to spiritual and ethical well being of people.

Dharma or righteous conduct ensures happiness among the people leading to the path of Dharma. The people are overpowered by sensual desires, Passion and Greed. Manu has, therefore, laid down tri-varga i.e., Dharma, Artha and Kama for promoting welfare

and happiness among the people This is the basic philosophy of Indian life and this doctrine was introduced to strike a balance between the interest of individuals and that of public. The objective was to secure right to happiness through supremacy of Dharma over Artha.

- Freedom of thought, conscience and religion;
- Right to access to health care services with state aiming to reduce infant and child mortality and abolish traditional practices, prejudices to health;
- Right to adequate standard of living and social security;
- Right to educate with states making primary education compulsory and free;
- Protection from involving in the illicit production, trafficking and use of narcotics, drugs and psychotropic substances; and
- Protection from sexual exploitation and abuse.

The Constituent Assembly entrusted with the responsibilities of Drafting the Constitution of India. It took note of engaged in the stupendous task of developing the basic and the Universal Declaration of Human Rights of UN in 1948 and incorporated many human rights as Citizens' Fundamental Rights in the Constitution. Right to Equality before Law (Art. 14), Right to Freedom from discrimination (Art 18) Right to Freedom of Speech, and Expression (Art. 19), Right to Assemble Peacefully (Art. 21) and Prohibition of Employment of Children in Hazardous Occupation (Art. 24) can be mentioned as relevant to the issue.

The chapter of Fundamental Rights covers the civil and political rights including the Right to Judicial Interference. The chapter was also included as a Directive Principle of State Policy requiring the state to promote and protect the rights of the most vulnerable sections of our society. The Directive Principles are meant to give a direction to the policy and actions of the Government so as to progressively realize the objectives of improving the standard of living and quality of life for all its Indian citizens. These chapters taken substantially contain the essence of human rights and the mode of their realization as stated in the Declaration of human rights.

In a sense, with the constitutional provisions the center and state governments have enacted many laws and regulations to preserve and safeguard the basic human rights. For example, Code of Criminal Procedure, Indian Penal Code and the Evidence Act are meant for ensuring human rights of the Indian citizens. Besides, Government has also setup various national institutes for the promotion and protection of the interest of the most vulnerable sections of the society. These are the National Commission for Scheduled Castes and

Scheduled Tribes, National Commission for Women and the Minorities Commission. These Commissions have been reviewing the socio-economic conditions of these groups and related government policies, legislation to ensure that their status in the society can be progressively strengthening these national institutes. The National Police Commission and the Law Commission have also made much contribution to the law and order system of the country for protection of the rights and freedom of all citizens.

The Government of India has been continuously reviewing the statutes regarding the rights of the individual. For example, the offences against the members of the Scheduled Castes and Scheduled Tribes, SC and ST (Prevention) of Atrocities Act, 1989 was enacted and therein it is mentioned that if public servants willfully neglects his duties under the Act, he will be liable for protection and imprisonment. Similarly, provisions have been made under the IPC defining the offence of rape in custody and against the accused. Similarly, Civil Rights Act, 1976, Dowry Prohibition (Amendment) Act, 1989. Probation of Offenders Act and the Juvenile Justice Act has also been enacted to protect the rights of the most vulnerable sections. Besides, deterrent punishment has been provided for violation of these laws particularly for those who are appointed for protection of such rights. Our judiciary has the Constitutional mandate to be the custodian of the fundamental rights of the individual and has consistently acted with zeal to protect these rights. Indian judiciary has also evolved a unique legal process known as "Public Interest Litigation" for initiating the proceedings for redressal. An individual or group can bring the offence to the attention of the judiciary and High Courts and the Supreme Court of India can take cognizance of such offences and start the judicial process to provide remedial measures. The Parliament and the State legislatures have also been quite vigilant about the violation of human rights. This has helped immensely not only in creating public awareness, but also in ensuring prompt action against those who are guilty of committing such offences. India also is proud of having an independent and vigilant press that has always acted as a watch dog for the protection of human rights particularly in case of violation of human rights are mainly based on pronouncement of the judiciary and reports in the press.

Model Question

Discuss the development of Human Rights

LESSON 3

CHARACTERISTICS OF HUMAN RIGHTS

There are certain characteristics of Human Rights which are being demanded by the people everywhere in the world. It need not be emphasized that as the needs of human beings go on changing with time, the contents of the Human rights must go on changing. The rights must correspond to the needs of the people. Since the needs of the people are recognised by the law of the land they become precise and capable of enforcement. The rights are not absolute. If circumstances demand that certain restrictions must be put on the enjoyment of certain rights so that the higher interests of the society as a whole may be secured, that has to be done. That is why the fundamental rights guaranteed by the Indian Constitution have been restricted in many ways. Even in religious matters, restrictions can be imposed by the state in the interest of society as a whole. Even the right to property is not absolute. It can be taken away by the state for a public purpose and courts cannot go into the question of the adequacy of the compensation given to the owners of property.

The state exists to maintain all those conditions which are necessary for the full growth of human beings and as such it seems idle to think of individuals having rights against the state. However, this does not mean that an individual has no right against any particular government. If the officials of the government violate the provisions of law, an individual must have a remedy against them. Likewise, if an officer acts arbitrarily, the aggrieved party must have a remedy in the form of a right to move to the court. The same can be done if an executive or legislative action is ultra virus. The right against the government has been conceded in many cases in modern times. Formerly, no government employee could file a suit against the government for the realization of the arrears of his salary but the Supreme Court of India has guaranteed this right.

Rights are co-relative with functions. The number of rights possessed by an individual must correspond to the contribution which he makes to society. The governor of a state is entitled to have more rights than his peon because his contribution is definitely greater than that of his peon. The question is what rights the state has over the individual. The view of Dr.Bosanquet is: "The state is the guardian of the whole moral world and not a factor within an organized moral world". This view is not accepted today. It is contended that the state is only a factor in the lives of the citizens. The state acts through law and law can regulate only the external actions of the individuals and that points to the limited scope of the sphere of the state.

Rights imply duties. Rights and duties go together. One cannot exist without the other. If I have a right, the enjoyment of my right implies a duty on the part of others. Rights are real only to the extent to which they have been accepted by others as an obligation. As my right implies a duty on others, the larger the number of rights I enjoy, the greater must be the number of duties imposed on others and vice versa. I have my rights against the state, society and individuals, and hence I owe my duties to them all.

The right of an individual implies his duty to exercise his right in a proper way. The object of rights is not to satisfy the whims and caprices of individuals. Rights are intended to serves some moral purpose. An individual should exercise his rights in such a way that society is not adversely affected. If that is not done by any individual, the very object of the right is forfeited. To take one example, my right to speak imposes a duty on others not to interfere with it. But I must use my right in such a way that the higher interests of society as a whole do not thereby suffer. I have no right to preach violence among the people.

Classification of Rights: Natural Rights

Rights are divided into three categories: natural rights, moral rights and legal rights. Legal rights are further subdivided into three parts: civil rights, political rights and economic rights. As regards natural rights, it is not possible to define them as different meanings have been given to them by different writers at different times. In ancient times, they implied the fundamental rights based on rationalism and universal divine law. The Jus Gentium of the Romans was based on natural rights. According to writers like Hobbes and Locke, natural rights were those which were enjoyed by the individuals in the state of nature. Green says: "In these days, the doctrine of natural rights can be accepted only in one way. Rights are natural in the sense that they are necessary for the moral development of man in the present stage of society. They represent an attainable ideal which the state seeks to achieve.

Moral Rights

"Moral rights" are those rights which are recognised by the moral sense of the people. Their existence is due to custom, long usage and the force of public opinion. There is no sanction of the state to enforce them. While no legal action can be taken against those who violate moral rights, the force of public opinion is so strong that it is difficult for an individual to violate them. A wife has a moral right to be kindly treated by her husband. If she is not so treated, she cannot go to a court of law for the enforcement of her right but public opinion condemns such an attitude on the part of her husband.

Legal Rights

According to Dr.Leacock, a 'legal right' is "a privilege or immunity enjoyed by a citizen against any of his fellow citizens, granted by the sovereign power of the state and upheld by that state". Legal rights are recognised by the state and the police and the courts ensure their enforcement. Legal rights are embodied in the law of the country.

The Civil-Political Distinction

Until the middle of the 20th century, civil rights were usually distinguished from 'political rights'. The former included the rights to own property, make and enforce contracts, receive due process of law, and worship one's religion. Civil rights also covered freedom of speech and the press. But they did not include the right to hold public office, vote, or to testify in court. The latter were political rights, reserved to adult males.

The civil-political distinction was conceptually and morally unstable insofar as it was used to sort citizens into different categories. It was part of an ideology that classified women as citizens who were entitled to certain rights but not be the full panoply to which men were entitled. As that ideology broke down, the civil-political distinction began to unravel. The idea that a certain segment of the adult citizenry could legitimately possess one bundle of rights, while another segment would have to make do with an inferior bundle, became increasingly implausible. In the end, the civil-political distinction could not survive the cogency of the principle that all citizens of a liberal democracy were entitled, in Rawls's words, to "a fully adequate scheme of equal basic liberties".

It may be possible to retain the distinction strictly as one for sorting rights, rather than sorting citizens. But it is difficult to give a convincing account of the principles by which the sorting is done. It seems neater and cleaner simply to think of civil rights as the general category of basic rights needed for free and equal citizenship. Yet, it remains a matter of contention which claims are properly conceived as belonging to the category of civil rights. Analysts have distinguished among "three generations" of civil rights claims and have argued over which claims ought to be treated as true matters of civil rights.

Civil liberties

Liberal ideas have been influential in the origin and development of the classical civil liberties. The meanings of the word "liberal" given in the Shorter Oxford Dictionary provide an indication of the context in which the word is used. "Free from restraint; free in speech

or action... Free from narrow prejudice; open minded... especially open to the reception of new ideas or proposals of reform .... of political opinions: favourable to changes and reforms tending in the direction of democracy". Freedom is an important value in representative democracies. The idea of the fundamental freedoms has been influential in all genuine representative democracies.

Some Constitutions contain a statement of human rights professedly in order to safeguard the freedom of individuals and groups in society. Other Constitutions may not, but freedom operates as a politically and socially persuasive doctrine. There is no agreement as to the content of such rights. The more important rights may be said to include the right of each individual to:

1 freedom of speech and expressions, freedom from arrest or detention except under authority of law, freedom from cruel, inhumane or degrading punishments and the right to a fair trial by a competent and independent court

2 freedom to enjoy lawfully acquired property

3 equality of opportunity (including freedom from discrimination)

4 freedom of assembly and association (including public meeting and withdrawal of labour)

5 freedom of thought, conscience and religion, freedom to contract

6 freedom to engage in a trade, profession or occupation

7 freedom to movement within a nation and across national borders.

So, Rights correspond with duties and safeguard the interest of whole society and arrest the excess of state.

Model Question

Explain the features of Human Rights.

LESSON 4

THEORIES OF HUMAN RIGHTS

Various theories of rights emerged during the different phases of the development to rights. The main theories are the theory of natural rights, legal theory of rights, historical theory of rights and idealist theory of rights.

Theory of Natural Rights

The theory of natural rights was very popular during the seventeenth and eighteenth centuries. This theory treated the rights of man as "self-evident truth". Those rights were not granted by the state but came from the very nature of man. The theory of natural rights is based on the liberal theory of the origin of the state from social contract. Certain rights were enjoyed by man in the state of nature, before the formation civil society itself and those were the natural rights of man and those must be respected and protected by the state. John Locke was the strongest supporter of the theory of natural rights. His theory of social contract which established a limited constitutional government, his theory of political power as a trust in the hands of the rulers, his theory of revolution against the government which violates the trust by attacking the natural rights of man, all flow from his theory of natural rights. The view of Locke was that men were born free and came into the world with certain natural rights. Among the natural rights, Locke considers the right to life, liberty and property as the most important. Those natural rights flow from the strong desire of man for preserving his life and being Locke gave prime importance to the right to property.

Thomas Paine (1737-1809) view was that every generation should be free to think and act for itself. The rights to liberty, property, security and resistance to oppression derived their sanction from the natural rights "pre-existing in the individual". The theory of natural rights of T.H. Green view was that the rights of man do not emanate from a transcendental law but came from the moral character of man himself. Rights depend on recognition which depends upon the moral consciousness of the community and not the state. Green was concerned not with legal rights but with ideal rights. The theory of natural rights inspired the American and French Revolutions. The American Declaration of Independence (1776) was in those words: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and pursuit of Happiness. That to secure these rights, Governments

are instituted among Men, deriving their just powers from the consent of the governed. That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to affect their safety and happiness".

The supporters of this theory are hostile to the state and maintain that rights are pre-political. The legal theory of rights shows that without the protection of laws, enforcement by courts and guarantee by the Constitution, rights are futile. Rights cannot be enjoyed in a vacuum. There must be some authority to protect and enforce them. Most of the advocates of natural rights do not accept the logical relationship between rights and duties. The fact is that without duties, there cannot be any rights.

The Legal Theory of Rights

According to this theory, all rights of men depend on the state for their existence. There can be no right in the proper sense of the term unless it is so recognised by the state. There are no absolute rights. There are no rights inherent in the nature of man as such. Rights are relative to the law of the land and they vary with time and space. Rights have no substance until they are guaranteed by the state. There were no rights prior to the state and they came into existence with the state itself. It is the state which declares the law and thereby guarantees and enforces rights.

Hobbes was the first to propound the legal theory of rights. He established the relation between rights and authority and maintained that without authority, there could be no rights at all. This theory was fully developed by Bentham, Austin, Ritchie and Salmond. Bentham was the greatest champion of the legal theory of rights. The legal theory of rights entrusts three functions to the state with regard to rights. The first function is to determine the rights. The second functions is to define the scope of rights. The third function is to remove hindrances which come in the way of the fulfillment of rights. However, this theory does not maintain that rights are the creation of the state and depend upon the state. It simply maintains that rights are no rights without proper recognition and protection by the state.

The view of Spencer is that the state does not create rights. It exists in order to maintain rights. N. Wilde writes, "The law does not create our rights, but only recognizes them and protects them. The rights themselves exist whether they are thus legalized or not. They are enforced because they are rights and not rights because they are enforced".

Another defect with the legal theory of rights is that it does not cover the whole scope of rights. Whether rights are derived from history, customs or laws, they all require a moral basis. The legal theory of rights does not enable us to decide whether the rights that are recognized are rights which ought to be recognized.

Historical Theory or Rights

According to this theory, rights are a product of long historical evolution of society and are based on traditions and customs. With the change in time and circumstances, rights also change. Rights are the crystallization of customs and traditions. This theory originated in the eighteenth century conservative political thought. Its upholders defended evolutionary changes and condemned revolutionary changes. At best, they supported a revolution inspired by the established order of society.

Edmund Burke (1729-1797) who is considered to be greatest champion of the historical theory of rights. According to him, political institutions form a vast and complicated system of prescriptive rights and customary observations. Those practices grow out of the past and adapt themselves with the present without any break in the continuity. Burke criticised the French Revolution as being an injudicious exercise in the direction of a struggle for liberty, equality and fraternity but praised the Glorious Revolution of 1688 as a re-assertion of the centuries-old right of the Englishmen. The supporters of the historical theory of rights were Savigny (1779-1861). Sir Henry Maine (1822-1888), Ranke and Burgess. Those writers were jurists who raised their voice of protest against the natural law theories and the positive law school represented by Bentham and Austin.

According to this theory, rights are the result of historical evolution. While in modern state, rights are recognised and supported by law, in ancient times, rights were based on custom and usage. In course of ages, human beings evolved certain usages, traditions and customs for the common good and those became the basis of rights of individuals. It cannot be accepted that all rights are the result of well-established customs. Only some rights are the result of historical evolution. Certain rights are created by law and they do not have history as a source of their origin. All products of history are not regarded as rights or continued as rights. Slavery was a recognised institution in Greece, but today no state supports slavery as a right. Likewise, the customs of Sati, Devdasi and untouchability are not recognised as rights today as those were based on injustice and oppression. The state had to ban those customs in order to ensure that rights became the vehicles of justice and not of tyranny. Hocking writes, "History cannot be ignored, but history cannot be relied on alone".

The Idealist Theory of Rights

According to the Idealist or personality theory of rights, human beings need congenial external conditions for the development of their personalities and those conditions are created by the state. The theory links rights with the moral development of man and looks at rights essentially from the ethical point of view. Without these conditions, it is not possible for the individual to live and realize his full stature. These opportunities are rights to be enjoyed by the individual in society. Those rights are to be understood in a social context. Rights are linked with the individual good and the common good of all.

Moderate idealists like Kant and Green speak not in terms of the growth of individual personality alone, but also in terms of the common good. Conditions for the ethical and moral development of man are created by the state. According to Green, human consciousness postulates liberty, liberty involves rights and rights demand the state. According to Bosanquet, rights are the conditions for the realization of the end of the state. They are the claims recognised by the state. The view of Krause, Henrici and Wilde is that without rights man cannot become his best self.

Critics point out that there are certain defects in the theory. It is vague and objective standards cannot be applied. Just as the greatest happiness of the greatest number as expounded by the Utilitarians cannot be measured, the conditions supposed to be aiming at the moral perfection for the individual cannot be assessed.

Social Welfare Theory of Rights

According to this theory, rights are created by society and they aim at realizing social welfare. The contention of this theory is that the rights of individuals are limited by social welfare. No individual can be given rights against the welfare of society. Rights are not given to anti-social individuals. They are always restricted in the interests of society. Individuals are given rights so that they may contribute to the common good. An individual who does not perform his social functions, cannot claim any right. This theory emphasis social character of rights. It is based on the demands of social justice and values of social welfare, the great welfare. The great protagonists of this theory are Roscoe Pound, Chafee and Laski.

Critics point out certain shortcomings in this theory. The maxim of social welfare is highly ambiguous. In actual practice, it may mean different things to different persons. In the name of social welfare, governments are arming themselves with excessive powers which result in the erosion of the rights of the individual. In the name of social welfare, the Parliament and State Legislatures in India have passed many laws eroding the fundamental rights of the individual.

Model Question

Bring out the different theories of Human Rights

LESSON 5

RATIONALE OF HUMAN RIGHTS

In countries which have bills of rights there is a basic statement of freedoms subject to permitted abridgement of such freedoms. Freedoms are restricted in the public interest on grounds of national security, to preserve public order, to protect public health, to maintain moral standards, to secure due recognition and respect for the rights and freedoms of others or to meet the just requirements of the general welfare of a democratic society. The United States Supreme Court has over the years qualified the rights in the Constitutions. Any statement of rights is not absolute and must of necessity be subject to limitations on the above lines. The right of free speech and expression does not extend to sedition, slander, defamation and obscenity. The principle of equality before the law cannot deny a legislature the power to classify persons for legislative purposes and to legislate affecting them, provided that the classification is not arbitrary and is based on a real and substantial distinction bearing a reasonable and just relation to the objects sought to be achieved. Thus the legislature could enact legislation regulating the activities of money lenders. This would amount to a singling out of money lenders and would be prima facie in conflict with the principle of equality before the law. But provided the classification is reasonable.

The clash of rights

The reality that human rights are not absolute and are subject to reasonable restrictions does not mean that the rights can be arbitrarily curtailed according to legislative or bureaucratic discretion. The manner in which restrictions are to be determined and imposed and the criteria which apply to the formulation of restrictions are crucial. Human rights to be meaningful cannot be subject to crude majoritarian dictates. What distinguishes a human right from any other right is that a human right is available and enforceable by a minority, however small, even against the wishes of a majority. If human rights were to become subject to ordinary parliamentary control they would be no different from any other statutory right which Parliament is free to confer and withdraw at its pleasure. The restriction of human rights is therefore a crucial and delicate question. They cannot be based on ideological perceptions of Parliamentarians, bureaucrats or the Human rights Commission but must be grounded on objectively ascertained and comprehended criteria.

"The right to march and demonstrations" and for upholding the principle of the right to democratic protest are questionable rights? What are these rights? There is no absolute right to democratic protest or to march. There are rights of speech and expression and assembly. But these rights are subject to limitations. The right to freedom of association must be exercised so as not to interfere with the rights of others to move about the streets or go about their business. Where there is a clash of rights methods must be devised through rational analysis, political avenues and the courts so that the rights of all parties could be exercised so as not to inconvenience each other. If this is not possible (as it often is not) there must be a compromise or one must be restricted and give way to the other.

The clash of rights is a factor which the United States courts and citizens are very familiar with. An example of a conflict of rights is where the right of free expression of the press to coverage of news stories may clash with the right of an accused in a criminal case not to be prejudiced by adverse publicity of allegations made against him prior to trial or in a pre-trial hearing. An example of a clash of rights which occurred in the United States is provided by the case where the Court was asked to outlaw explicit racial quotas for minority racial groups to enable them to enter universities. The idea behind the quotas was to provide a method by which underprivileged black sections of the community would be entitled to a specific number of places in a university. The rationale behind this and many other schemes which are being operated in the United States is to give some preference to blacks over whites in educational institutions and employment in order to remedy the alleged evils of past discrimination.

Judges, Community values and a Bill of Rights

The argument is used that a Bill of Rights would involve placing excessive power in the judges. The judges interpreting a Bill of Rights are not acting in a vacuum nor are they unfettered by public comment, as they generally are in private litigation. Controversy and comment would naturally follow judicial action or non-action. This is very evident in the United States where there is an enforceable bill or rights and widespread comment and debate invariably follows significant fundamental rights judgements of the court. Thus judges are compelled to consider and reflect on community attitudes and values. It is significant that the United States Supreme Court handed down its epoch-making civil rights decision

in Brown vs Board of Education (1954) which outlawed racial segregation in the schools at a time when community attitudes to the issue were changing. In earlier years when community attitudes were more right the court had upheld racial segregation.

Community values

This illustrates an important factor which must be borne in mind in any discussion of fundamental rights. There necessarily exists a relationship between community values and the law. The law can creep ahead of community standards (more often perhaps it might lag behind) but it cannot be entirely divorced from popular values.

There is a case for a Bill of Rights enshrining community shared values, within the framework of which the courts reacting to arguments put forward by citizens and groups, in the context of public and media discussion and analysis of the issues, can pass judgement on conflict which arise. In the absence of such a framework the ensuring debate, as individuals and groups are today becoming more assertive, is likely to be fragmented and lead to frustration and even violence, when the institutions provide no forum if not for redress, at least for expression of opinion and a dialogue which could lead to realization of the existence of opposing options. The educative aspect of a Bill of Rights is perhaps even more important than the adjudicative function.

It requires emphasis that a Bill of Rights, if it exists, should be administered by properly constituted and independent courts and not by bureaucrats or non judicial tribunals. The problems arising from non-judicial bodies determining issues relating to rights and alleged rights are demonstrated in many parts of this world.

Exaltation of Particular Rights

One of the real problems in the human rights arena today is the failure by the Human Rights Commission and many who profess to be concerned about human rights to appreciate that human rights are complementary to each other. The pursuit of one particular right without regard to others is self defeating and destructive of the overall framework of rights which is essential to the operation of specific rights. Human rights activists overlook this dimension. Some rights such as the right to equality of opportunity, freedom of speech and freedom of person and property are more important than other rights. If one right must prevail over another a rational basis must be provided. This involves an examination of the two rights, an evaluation of the importance of each and the context. Thus for example in seeking to eliminate some forms of discrimination, damage is caused to other rights (such

as freedom of speech or freedom of property) which together have progressively reduced various forms of discrimination and will continue to do so if allowed to flourish. A dispassionate look at the modern history of western civilization will reveal that these rights together with economic freedom have contributed more to the emancipation of oppressed classes than any form of governmental action.

Rights without Duties

Hohfeld, a legal philosopher, emphasized the relationship between rights and duties and also about the difference between rights and privileges. Hohfeld emphasized that there cannot be a right without a duty. Right in one person presupposes a duty in another. The concept of a right without a duty is meaningless. Likewise he also distinguished between rights and privileges. A privilege is available on sufferance. It is a discretion vested in the person granting it. A right is an entitlement. On this analysis what are commonly called rights to employment, welfare, etc are not rights. A right to employment is meaningless because there is no person who is under a duty to employ. Welfare is not a right. It is a privilege which is given to certain persons. Whether one agrees with this analysis or not, it is undeniable that at the commonsense level a right involves a duty in another person or institution. As an essential commonsense corollary, it must also involve an acceptance of that duty by the person who is subject to it. It is ironic in society today that while more and more people are demanding rights, fewer and fewer people are concerned about duties, least of all those who are most vocal in the assertion of rights. Governments, the Human Rights Commission and many other government agencies provide doubtful leadership in this regard. They are educating people about their rights and are attempting to make more and more rights available with no reference to logic and commonsense. But they seem unconcerned about the need to educate people about duties and the importance of a sense of responsibility.

Undermining the judiciary

A major failing in the current intellectual trend is the non-appreciation of the indispensable role of the judiciary in the operation of any system of human rights. An independent and impartial judicial apparatus is a prerequisite for the meaningful existence of human rights. Human rights can be violated either by state action or by private action. Human rights were originally conceived as safeguards against oppression by government.

Model Question

Discuss the rationale of rights

LESSON 6

UNITED NATIONS' HUMAN RIGHTS SYSTEM

The Human Rights provisions of the Charter of the United Nations and the law and institutions that have been developed within UN framework are mentioned in this chapter. These legal norms and institutions derive either from the Charter itself or the human rights treaties adopted under the auspices of the UN.

The UN Charter

Modern international human rights law is a post-world war II phenomenon. Its development can be attributed to the monstrous violations of human rights of the Hitler era and to the belief that these violations and possibly the war itself might have been prevented had an effective international system for the protection of human rights existed in the days of the League of Nations.

The International Human Rights cause was eloquently espoused as early as 1941 by President Franklin D. Roosevelt. In his famous four essential human freedoms", identified as "freedom of speech and expression", "freedom of every person to worship God in his own way", "freedom from want", and "freedom from fear". Roosevelt's vision of "the moral order", as he characterized it, Became the clarion call of the nations that fought the Axis in Second World War and founded the United Nations.

San Francisco Conference and human rights

The Human Rights provisions which ultimately found their way into the Charter of the United Nations fell far short or the expectations created by Roosevelt's vision and the wartime rhetoric. That was to be expected, for each of the principal victories powers had troublesome human rights problems of it is own. The Soviet Union had its Gulag, the United States its de jure racial discrimination, France and Great Britain their colonial empires.

Given their own vulnerability as far as human rights were concerned, it was not in the political interest of these countries to draft a Charter that established an effective international system for the protection of human rights, which is what some smaller democratic nations advocated. Although the big powers prevailed to the extent that the San Francisco Conference produced no protective system as such, the UN Charter did nevertheless lay the legal and conceptual foundation for the development of contemporary international human rights law.

Human Rights in the UN Charter

Universal Declaration of Human Rights

Adopted and proclaimed by General Assembly resolution 217 A(III) of 10 December 1948

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against, tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the people of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms.

Whereas a common understanding of these rights and freedom is of the greatest importance for the full realisation of this pledge,

Now, therefore

The General Assembly,

Proclaims the Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedom and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the people of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are both free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political Jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Articles 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against; any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Every one is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charges with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed then the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Every one has the right to seek and to enjoy in other countries asylum from persecution.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching; practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Articles 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right to equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interest.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. parents have a prior right to choose the kind of education that shall be given their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary of artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedom set forth in this declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedom, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

The Charter of the United Nationals proclaims the following goal as one of the "purposes" of the UN;

To achieve international co-operation in solving international problems of an economic social, culture, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.

The basic obligations of the organization and its Member States in achieving these purposes, these provisions read as follows.

Article 55

With a view to the creation of conditions of stability and well being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal and self-determination of peoples, the Untied Nations shall promote,

a) Higher standards of living, full employment, and conditions of economic and social progress and development.
b) Solutions of international economic, social, health, and related problems, and international cultural and educational co-operation and
c) Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All members pledge themselves to take joint and separate action in co-operation with the organisation for the achievement of the purpose set fourth in Article 56.

Article 56 required Member States "to take Joint and separate action in co-operation with the organisation" to accomplish the objects spelled out in Article 55. To facilitate this co-operation, Article 13(1) of the Charter provides that the General Assembly "shall initiate studies and make recommendations for the purpose of. (b) assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion". The Charter confers similar power on the UN Economic and Social Council (ECOSC). It authorizes the ECOSOC to "make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all" and requires it to "set up commissions in economic and social fields and for the promotion of human rights....."

The organisation has over the years succeeded in clarifying the scope of the Member States obligation to "promote" human rights, expanding it and creating UN Charter – based institutions designed to ensure compliance by governments. Today it is generally recognized, for example, that a UN Member State which engages in practices amounting to a "consistent pattern of gross violations" of internationally guaranteed human rights is not in compliances with its obligations to "promote ... universal respect for, and observance of..." these rights and that, consequently, it violates the UN Charter.

The UN has sought to enforce this obligation with resolution calling on specific states to stop such violations and by empowering the UN Commission on Human rights and its subsidiary bodies to establish procures to review allegations of violations.

THE INTERNATIONAL BILL OF HUMAN RIGHTS

The International Bill of Human Rights consists, in addition to the human rights provisions of the UN Charter, of the Universal Declaration of Human Rights, the two International Covenants on Civil and political Rights. Essential Rights of Man" be appended to the Charter were made but not acted upon at the San Francisco Conference. These efforts were revived at the first meeting of the United Nations.

Shortly therefore, its newly created commission of Human Rights was charged with drafting "an international bill of human rights". The commission soon recognized that it would be relatively easy to adopt the text of declaration, but that it would prove much more difficult to reach agreement on the wording of a legally binding treaty. The Commission decided, therefore, to work first on a declaration and to take up immediately afterwards the preparation of one or more draft treaties. This approach produced the Universal Declaration of Human Rights, which was adopted the by the UN General Assembly in December 1948. It took more time before the treaties – the two Covenants and the Optional Protocol were adopted by the Assembly and opened for signature.

The Universal Declaration of Human Rights

The Universal Declaration is the first comprehensive human rights instrument to be proclaimed by a universal international origination. Because of its moral status and the legal and political importance it has acquired over the years, the Declaration ranks with the Magna Carta, the French Declaration of the Rights of Man and the American Declaration of Independence as a milestone in mankind's struggle for freedom and human dignity. Its debt to these great historic documents is unmistakable. "All human beings are born free and equal in dignity and rights", proclaims Article 1 of the Universal Declaration, and Article 28 adds "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized".

The rights and freedoms

The Universal Declaration proclaims two broad categories of rights: civil and political rights, on the one hand, and economic social and cultural rights on the other. Its catalogue of civil and political rights includes the rights to life, liberty, and security of person; the prohibition of slavery, of torture and cruel, in manor degrading treatment; the right not to be subjected arbitrary arrest, detention or exile, the right to a fair trial in both civil and criminal matters, the presumption of innocence and the prohibition against the application of exposit facto laws and penalties.

The Declaration recognizes the right to privacy and the right to own property. It proclaims freedom of speech, religion, assembly and freedom of movement. The latter embraces the right of everyone "to leave any country, including his own, and to return to his country". Also guaranteed are the right "to seek and to enjoy in other countries asylum from persecution" and the right to a nationality. Important political rights are proclaimed in Article 21 of the Declaration, including the individual's right "to take part into the government of his country, directly or through freely chosen representatives". That provision also decides that the "will of the people shall be the basis of the authority of government" and requires "per[illegible]c and genuine elections" by universal suffrage.

The catalogue of economic, social and cultural rights proclaimed in the Declaration starts with the proposition, express in Article that

Everywhere, as member of society... is entitled to realization, through national co- operation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. The declaration then proclaims the individual's right to social security, to work, and to "protection against unemployment", to "equal pay for equal work", and to :just an favourable remuneration. The right "to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay" is recognized in Article 24. Article 25 of the declaration states that everyone has the right "to a standard of living adequate for the health and well – being of himself and of his family". It also recognizes the individual's right " to security in the event of unemployment, sickness, disability, widowhood, old age or other, lack of livelihood in circumstances beyond his control.

The right to education is dealt with in Article 26 of the Declaration which provides, among other things, that education shall be free at least in the elementary and fundamental stages". Article 26 also declares that Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial or religious groups, and shall further the activities of the United States for the maintenance of peace.

Article 27 of the Declaration deals with cultural rights and states Inter alias that every human being has "the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits".

The Declaration recognizes that the right it proclaims is not absolute. It permits a State to enact laws limiting the exercise of these rights, provided their sole purpose is to secure "due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society".

A government's authority to impose such restrictions is further limited by Article 30, which provides that "nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms" proclaimed in the Declaration. In other words, a government would violate the Declaration if its reliance on the power to impose lawful restrictions or limitations on the exercise of certain human rights was a mere pretext for denying these rights.

Legal effect and political importance

The Universal Declaration is not a treaty. It was adopted by the UN General Assembly as a resolution having no force of law. Its purpose, according to its preamble, is to provide "a common understanding" of the human rights and fundamental freedoms referred to in the UN Charter and to serve "as a common standard of achievement for all peoples and all nations".

In the decades that have elapsed since its adoption in 1948, the Declaration has undergone a dramatic transformation. Today few international lawyers would deny that the Declaration is a normative instrument that creates at least some legal obligations for the Member states of the UN. The dispute about its legal character concerns not so much claims that it lacks all legal force. The disagreement focusess instead on questions about whether all the rights it proclaims are binding and under what circumstances, and on whether its obligatory character derives either from its status as an authoritative interpretation of the human rights obligations international law, or its status as a general principle of law.

The process leading to the transformation of the Universal Declaration form a non-binding recommendation to an instrument having a normative character was set in motion, in part at least, because the effort to draft and adopt the Covenants remained stalled in the UN for almost two decades. During that time the need for authoritative standards defining the human rights obligations of UN Member Status became ever more urgent. As time went on, the Declaration came to be utilized with ever greater frequency for that purpose. Whenever governments, the UN or other international organizations wished to invoke human rights norms or condemn their violations, they would refer to and draw on the Declaration as the applicator standard. Thus the Declaration came to symbolize what the international community means by "human rights", reinforcing the conviction that all governments have an "obligation" to ensure the enjoyment of the rights the Declaration proclaims.

The legal significance of this process has been analysed in at least three ways. Some international lawyers and government have contended that the UN's consistent reliance on the Universal Declaration when applying the human right provision of the UN Charter compels the conclusion that the Declaration has come to be accepted as an authoritative interpretation of these provisions. According to this view, the Member States of the UN have agreed that they have an obligation under the charter to promote "universal respect for, and observance of" the rights which the declaration proclaims. Whether a state can be deemed to violate this obligation when it denies all, some or even only one if these rights will then depend upon the interpretation given to the undertaking contained in Article 55 of the Charter read together with Article 56. Another view that is gaining increasing support sees in the repeated reliance on and resorts to the Universal Declaration by governments and inter governmental organizations the requisite state practice which is capable of giving rise to customary international law. This theory leads to the conclusion that the Declaration or, at the very least, some of its provisions, have become customary international law.

A careful analysis of the relevant state practice suggests, however, that not all the rights proclaimed in the Declaration have to data acquired this status. This is why the Restatement (Third) characterizes only some rights proclaimed in the Universal Declaration as customary international law. Without claiming to be exhaustive, it lists the following governmental practices as violating international law: genocide, slavery, murder or causing the disappearance of individuals, torture or other cruel, inhuman or degrading treatment or punishment, prolonged arbitrary detention, systematic racial discrimination, and insistent patterns of gross violations of internationally recognized human rights.

One distinguished commentator has combined the two aforementioned theories by advancing the following view:

The Declaration is now considered to be an authoritative interpretation of the U.N. Charter, spelling out in considerable detail the meaning of the phrase "human rights and fundamental freedoms", which Member States agreed in the Charter to promote and observe. The Universal Declaration has jointed the Charter. As part of the constitutional structure of the world community, the Declaration, as an authoritative listing of human rights, has become a basic component of international customary law, binding all states, not only members of the Untied Nations.

It remains to be seen whether this characterization of the Universal Declaration will gain general acceptance, particularly if it is understood as imposing on all states an immediate obligation to conform to its every provision. Some commentators are now putting forth a third theory which characterizes various international human rights norms, including the Universal Declaration as being reflective of a dynamic modern aspect of general principles of law. Whether the theory, it is today clear that the international community attributes a very special moral and normative status to the Universal Declaration that no other instrument of its kind has acquired.

International Covenants on Human Rights

The Covenant on economic, Social and Cultural Rights and the Covenant on Civil and Political Rights were adopted by the UN General Assembly and opened for signature in December 1966. Another decade passed before 35 states the number required to bring the Covenants into fore ratified both instruments. This number as increased significantly in recent years and by the end of 1994 grew to some 130 States Parties. Their United States ratified the Covenant in 1992. Being treaties, the Covenants create binding legal obligation for the States Parties.

Therefore, as between them issues relating to compliance with and the enjoyment of the rights guaranteed by the Covenants are matters of international concern and thus are no longer within their domestic jurisdiction, The Covenants have a number of common substantive provisions. Two of these deals with that might be described as "peoples" or "collective" rights. Article 9(1) of both Covenants proclaims that "all peoples have the right of self determination". Each Covenant established a distinct international enforcement system designed to ensure that the States Parties comply with their obligations.

Model Question

Explain the role of UNO for the protection of Human Rights

LESSON 7

AMNESTY INTERNATIONAL

Amnesty International (AI) is a worldwide movement of people who campaign for internationally recognized human rights. Amnesty International vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

In pursuit of this vision, Amnesty International mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.
In particular, Amnesty International campaigns to:

- free all prisoners of conscience;
- ensure fair and prompt trails for political prisoners;
- abolish the death penalty, torture and other cruel treatment of prisoners;
- end political killings and "disappearances";
- and oppose human rights abuses by opposition groups.

Members

Amnesty International has a varied network of members and supporters around the world. At the latest count, there were more than 1.8 million members, supporters and subscribers in over 150 countries and territories in every region of the world. Although they come from many different backgrounds and have widely different political and religious beliefs, they are united by a determination to work for a world where everyone enjoys human rights.

Activities

Activities range from public demonstrations to letter-writing, from human rights education to fundraising concerts, from individual appeals on a particular case to global campaigns on a particular issue.

Amnesty International is impartial and independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it necessarily support the views of the victims whose rights it seeks to protect.

To ensure its independence, it does not seek or accept money from governments or political parties for its work in documenting and campaigning against human rights abuses.

The European Union Office

Amnesty International's European Union office focuses on a range of European Union policies including:

- Human rights in European Union Member States and Accession countries,
- Human rights in European Union foreign policy;
- Security and human rights;
- Asylum and refugee protection;
- Judicial and police co-operation;
- Human rights and the arms trade;
- Co-operation and assistance programs.

In particular the European Union office is funded by the Amnesty International national sections in European Union Member States.

Amnesty International is independent of any government, political ideology, economic interest or religion. It does not support or oppose any government or political system, nor does it support or oppose the views of the victims whose rights it seeks to protect. It is concerned solely with the impartial protection of human rights. Amnesty International is a democratic, self governing movement. Major policy decisions are taken by an International council made up of representatives from all national sections. Amnesty International national sections and local volunteers groups are primarily responsible for funding the movement. No funds are sought or accepted from governments for Amnesty International work investigating and campaigning against human rights violations.

Annual Reports

Each year Amnesty International publishes a report on its work and its concerns throughout world.

During 2004, the human rights of ordinary men, women and children were disregarded and grossly abused in every corner of the globe. The Amnesty International Report 2005, convening 149 countries, is a detailed picture of these abuses. The report

also acknowledges the opportunities for positive change that emerged in 2004, often spearheaded by human rights activists and civil society groups. Whether in a high profile conflict or a forgotten crisis, Amnesty international campaigns for justice and freedom for all and seeks to galvanize public support to builds a better world.

Amnesty International Report 2004

Huge challenges confronted the international human rights movement in 2003. The UN faced a crisis of legitimacy and credibility because of the US-led war on Iraq and the organization's inability to holds states to account for gross human rights violations. International human rights standards continued to be flouted in the name of the "war on terror", resulting in thousands of women and men suffering unlawful detention, unfair trial and torture –often solely because of their ethnic or religious backgrounds. Around the world, more than a billion people's lives were ruined by extreme poverty and social injustice while governments continued to spend freely on arms.

This Amnesty international Report reflects those challenges. It documents the human rights situation in 155 countries and territories in 2003, and summarizes trends. It reports on areas of work being prioritized and developed by Amnesty International –such as violence against women; economic, social and cultural rights; and justice for refugees and migrants and celebrated the achievements of activists in these and other areas. In a dangerous and divided world, it is more than ever that the global human movement remains strong, relevant and vibrant. Through its members and allies, Amnesty International remains Committed to revitalizing the vision of human rights as a powerful tool for achieving justice for all.

Amnesty International's publication on women's rights is titled It's About Time! Human rights are Women Right.As the title indicates. Women's claims to human rights are long overdue; Women have functioned as a civilization signifier in the geographical arena for the last two centuries at least. In the late nineteenth and early twentieth Century, British and American ideologists argued for the necessity of imperialism as a means to improve the condition of women in colonies in Africa, the Middle East, and South Asia. For example, the publication of *Mother India* in 1927, by the American author Katherine Mayo, initiated a spirited defense of imperialism in the British press on the grounds it provided upward gender mobility for Indian women. More recently, in the twenty-first century the use of Afghan women as a signifier of the brutality of the Taliban has put a humane face on military intervention

and helped President Bush close the gender gap in his approval ratings. Women's human rights encompass both political and social rights. Till quite recently, women have been "the invisible victims" and "faceless masses filling the backgrounds on the canvasses of terror and hardship", constituting, along with children, the majority of the casualties of war, the world's refugees and displaced people, and the global poor. In the last several decades, however, women's organizations have become highly visible agents in challenging oppressive governments and patriarchal traditions. They have organized campaigns around the world to locate their "disappeared" relatives, for basic services in their communities, for legal representation, for equality in the workforce, for land rights and access to credit, and against torture and domestic violence. We will hear from the specific challenges that women face in China, Japan, Korea, Indonesia, and India. Yung-Chen Chaing, a professor of history at DePauw University, who spoke about how culture shapes women's human rights in China and Japan; Chunghee Sarah Soh, a professor of anthropology at San Francisco State University, describes Korean women's rights and said *It's About Time! Human Rights are Women's Rights.* Peg Sutton, a professor of education at IU, addresses the constitutional and material complexities of determining the status of contemporary Indonesian women; and Radhika Parameswaran, professor of journalism at IU, reflect on how sectarianism, the state, and gender interest in India, and the role journalism play in advancing women's human rights.

In particular, Amnesty International campaigns to:

- free all prisoners of conscience;
- ensure fair and prompt triats for political prisoners;
- abolish the deathpenalty, torture and other cruel treatment of prisoners;
- end political killings and "disappearances"
- and oppose human rights abuses by opposition groups.

Model Question

Analyse the activities of Amnesty International

LESSON 8

EUROPEAN COMMISSION ON HUMAN RIGHTS

A European Commission on Human Rights is 'the Commission' to protect the rights of European People.

Composition

The Commission shall consist of a number of members equal to that of the High Contracting Parties. No two members of the Commission may be nationals of the same state. The members of the Commission shall be elected by the Committee of Ministers by an absolute majority of votes, from a list of names drawn up by the Bureau of the Consultative Assembly; each group of the Representatives of the High Contracting Parties in the Consultative Assembly shall put forward three candidates, of whom two at least shall be its nationals. As far as applicable, the same procedure shall be followed to complete the Commission in the event of other States subsequently becoming Parties to this Convention, and in filling casual vacancies.

Tenure

The members of the Commission shall be elected for a period of six years. They may be re-elected. A member of the Commission elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term. The members of the Commission shall hold office until replaced. After having been replaced, they shall continue to deal with such cases as they already have under consideration. The members of the Commission shall sit on the Commission in their individual capacity.

Any High Contracting Party may refer to the Commission, through the Secretary – General of the Council of Europe, any alleged breach of the provisions of the Convention by another High Contracting Party.

Procedure

The Commission may receive petitions addressed to the Secretary-General of the Council of Europe from any person, non-governmental organization or group of individuals claiming to ..e victim of a violation by one of the High Contracting Parties of the rights set forth in this Convention, provided that the High Contracting Party against which the complaint

has been lodged has declared that it recognizes the competence of the Commission to receive such petitions. Such declarations may be made for a specific period. The declaration shall be deposited with the Secretary-General of the Council of Europe who shall transmit copies thereof to the High Contracting Parties and publish them. The Commission shall only exercise the powers provided for in this article when at least six High Contracting Parties are bound by declarations made in accordance with the established rules.

The Commission may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognized rules of international law, and within a period of six months from the date on which the final decision was taken.

The Commission shall not deal with any petition submitted which

(a) is anonymous, or

(b) is substantially the same as a matter which has already been examined by the Commission or has already been submitted to another procedure or international investigation or settlement and if it contains no relevant new information.

The Commission shall consider inadmissible any petition submitted under Article which it considers incompatible with the provisions of the present Convention, manifestly ill-founded, or an abuse of the right of petition. The Commission shall reject any petition referred to it which it considers inadmissible under Article 26.

Functions

In the event of the Commission accepting a petition referred to it:

(a) it shall, with a view to ascertaining the facts undertake together with the representatives of the parties and examination of the petition and, if need be, an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities, after an exchange of views with the Commission;

(b) it shall place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for Human Rights as defined in this Convention.

The Commission shall perform the functions set out in Article 28 by means of a Sub-Commission consisting of seven members of the Commission.

Each of the parties concerned may appoint as members of this Sub-Commission a person of its choice. The remaining members shall be chosen by lot in accordance with arrangements prescribed in the Rules of Procedure of the Commission. If the Sub-Commission succeeds in effecting a friendly settlement in accordance with rule 28, it shall draw up a Report which shall be sent to the States concerned, to the Committee of Ministers and to the Secretary-General of the Council of Europe for publication. This Report shall be confined to a brief statement of the facts and of the solution reached.

If a solution is not reached, the Commission shall draw up a Report on the facts and state its opinion as to whether the facts found disclose a breach by the State concerned of its obligations under the Convention. The opinions of all the members of the Commission on this point may be stated in the Report. The Report shall be transmitted to the Committee of Ministers. It shall also be transmitted to the States concerned, who shall not be at liberty to publish it. It transmitting the Report to the Committee of Ministers the Commission may make such proposals as it thinks fit.

If the question is not referred to the Court within a period of three months from the date of the transmission of the Report to the Committee of Ministers, the Committee of Ministers shall decide by a majority of two-thirds of the members entitled to sit on the Committee whether there has been a violation of the Convention. In the affirmative case the Committee of Ministers shall prescribe a period during which the Contracting Party concerned has not taken satisfactory measures within the prescribed period, the Committee of Ministers shall decide by the majority what effect shall be given to its original decision and shall publish the Report. The High Contracting Parties undertake to regard as binding on them any decision which the Committee of Ministers may take in application of the prescribed rules.

The Commission shall meet 'in camera'. The Commission shall take its decision by a majority of the Members present and voting; the Sub-Commission shall take its decisions by a majority of its members.

History and Structure

The current incarnation of the court was instituted on November 1, 1998, replacing the then existing enforcement mechanisms, which included the European Commission of Human Rights (Created in 1954) and the previous, limited Court of Human Rights, which was created in 1959.

The new court was the result of the ratification of Protocol 11, an amendment to the Convention, which was ratified in October 1997. Judges were subsequently elected by the Council of Europe, and the court was opened approximately one year later.

The court consists of a number of judges equal to the number of Council of Europe member states, which currently stand at forty-six. Despite this correspondence, however, there are no requirements that each state be represented on the court, nor are there limits to the number of judges belonging to any nationality. Judges are assumed to be impartial arbiters, rather than representatives of any nation.

The court is divided into four "Sections", each of which consists of a geographic and gender-balanced selection of justices. The entire court elects a President and four Section Presidents, two of whom also serve as Vice-Presidents of the court. All terms last for three years. Each section selects a Chamber, which consists of the Section President and a rotating selection of six other justices. The court also maintains a 17-member Grand Chamber, which consists of the President, Vice-Presidents, and Section Presidents, in addition to a rotating selection of justices from one of two balanced groups. The selection of judges alternates between the groups every nine months.

Complaints of violations by member states are filed in Strasbourg, and are assigned to a Section. Each complaint is first heard by a committee of three judges, which may unanimously vote to strike any complaint without further examination. Once past committee, the complaint is heard and decided by a full Chamber. Decisions of great importance may be appealed to the Grand Chamber. Any decisions of the court are binding on the member states.

It is the role of the Committee of Ministers to supervise the execution of court judgments, though they have no formal means of forcing member countries to comply. However, the ultimate sanction of non-compliance is expulsion from the Council of Europe and thus becoming a 'isolated' state within Europe. Further more, the European Union takes a keen interest in the Convention and Court (and its jurisprudence) so would not look kindly upon any European Union member state that did not fulfill its Convention obligations.

Reform

Due to the increase in awareness of European citizens of their rights under the Convention, the Court was becoming a victim of its own success. Some cases were taking up to five years before being heard and there was a significant backlog. For example, according to the Human Rights Information Bulletin (issued by the Council of Europe) between 1 November 2003 and 29 February 2004 the Court dealt with 7315 cases, of which 6255 were declared inadmissible.

Working on the principle that 'justice delayed is justice denied', the Council of Europe set up a working party to consider ways of improving the efficiency of the Court. This resulted in an amendment to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol 14. This new protocol, which requires universal ratification by all Council of Europe member states to come into force, make a number of changes:

- A single judge can decide on a case's admissibility. Before, three judges decided.
- Where cases are broadly similar to ones brought previously before the Court, and are essentially due to a member state failing judgment, admissibility can be decided by three judges rather than the seven-judge Chamber.
- A case may not be admissible if it is considered that the applicant has not suffered 'significant disadvantage'. However, this is not a 'hard and fast' rule.
- A member state can be brought before the court by the Committee of Ministers if that state refuses to enforce a judgment against it.
- The Committee of Ministers can ask the Court for an 'interpretation' of a judgment to help determine the best way for a member state to comply with it.

Amnesty International has expressed concern that these changes to the admissibility criteria will mean individuals may lose the ability to 'gain redress for human rights violations'

Asia Watch

Human Rights Watch is dedicated to protecting the human rights of people around the world. We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice. t investigates and expose human rights violations and hold abusers accountable It challenges governments and those who hold power to end abusive practices and respect international human right law.

It enlists the public and the international community to support the cause of human rights for all. Human Rights Watch is an independent, nongovernmental organization, supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly.

Asia Watch : is a division of Human Rights watch. It concentrate th problem of Asian Region. The following are some of the observation made by Asia Watch.

The Philippines government is alarmed at the strengthening of the Islamic separatist movement in the country's south. On December 15, a fragmentation grenade was lobbed into a five-story shopping plaza in Zamboanga City, leaving more than 60 Christmas shoppers wounded.

Governments in Pakistan and Afghanistan failed spectacularly to uphold women's rights, and violence against women was a pervasive problem in the region. The Indonesian government made no effort to further investigate the rapes of ethnic Chinese women in May 1998, and trafficking of women continued into or out of most of the countries of the region. Corruption remained a major obstacle to respect for human rights, with cronyism of past or present leaders a national political concern in Malaysia, Indonesia, the Philippines, China, and Pakistan.

On the positive side, economic recovery and democratization made steady progress. The more open countries in the region, Thailand and South Korea, recovered most rapidly from the effects of the 1997-1998 economic collapse, although key structural reforms were not implemented at year's end. In June, Indonesia successfully held its first free national election in forty-four years, but the triumph was marred by the continuing role of the army in political life, the persistence of "money politics" or influence-buying, and the failure of any politician to address the country's political and economic difficulties.

Regional governmental organizations played no role in human rights protection during the year. The Association of Southeast Asia Nations (ASEAN) seemed powerless and rudderless, in part because of the political and economic uncertainties in Indonesia, its larger member. The Asia-Pacific Economic Cooperation (APEC) summit in New Zealand in September ended up being a useful forum for discussion of East Timor but was otherwise seen by participants as lacking purpose or direction.

Model Question

Write briefly on European Commission on Human Rights.

LESSON 9

INDIAN CONSTITUTION : FUNDAMENTAL RIGHTS AND DUTIES

India, having a broad outlook at the national and international level, especially in the field of human rights. It included certain fundamental rights in Part III of the Constitution. Indian Constitution is the corner-stone of the nation.

Justice P.N. Bhagwati observed that these fundamental rights represent the basic values cherished by the people of this country since the Vedic times.

Justice N.A. Palkhivala said, "The fundamental rights constitute in material terms the anchor of the Constitution and provide it with the dimension of permanence"

The idea of incorporating fundamental rights was much influenced by the **Swaraj Bill** of 1895. It was followed by Mrs. Annie Besants' Commonwealth of India Bill; and Indian National Congress's Resolution in 1927 and the Nehru Report in 1928, The fathers of Indian Constitution were very much influenced by the Bill of Rights of American Constitution (1776), the French Declaration of the rights of man (1789) and the Irish Constitution (1935). All the rights were analysed thoroughly and they divided them into justifiable and non-justifiable rights. Justifiable rights were those which could be enforced by a Court of Law and were put in Part III of the Constitution were called as "Fundamental Rights". The non-justifiable rights which could not be enforced by a Court of Law were placed in Part IV of the Constitution and were called as "Directive Principles of State Policy".

The following are the fundamental Rights guaranteed to the people by the Constitutuion They are:

i) Right to liberty

ii) Right to equality

iii) Freedom to practice any profession or to carry on any occupation, trade or business.

iv) Right to life and personal liberty (Articles 20, 21 and 22)

v) Right to freedom of religion (Articles 25, 26, 27 and 28)

vi) Cultural and Educational Rights (Articles 29 and 30)

vii) Right to property (The 44th Amendment of the Constitution has deleted this right)

viii) Right against exploitation (Articles 23 and 24), and

ix) Right to Constitutional remedies (Article 32)

Under Part IV of the Constitution the following social and economic rights are Directive principles of State policy of administration and too be adapted as such in their legislative and administrative measures these right are:

i) Right to adequate means of livelihood [Article 39(a)]

ii) Right against economic exploitation [Article 39 (b)]

iii) Right of both sexes of equal pay for equal work [Article 39 (d)]

iv) Right to work [Article 41]

v) Right to leisure and rest (Article)

vi) Right to public assistance in case of unemployment old age, sickness and the like (Articles 41 and 42)

But it may be noted that the fundamental rights are enforceable against the State and not against the private individuals with the exception of the rights guaranteed under Article 15(2), Article 17, Article 231) and Article 24.

The fundamental rights cannot be waived. In view of Justice Bhagwati of the Supreme Court as he then was, "Fundamental rights are inviolable and as expressly enacted in the Constitution. Cannot be waived by a citizen, the Constitution adopted by our founding fathers is sacrosanct and it is not permissible to tinker with those fundamental rights by any ratiocination or analogy of the decisions of the Supreme Court of the United States of America. It is not open to a citizen to waive his fundamental rights which have been for the first time enacted in the Constitution and it would be a sacrilege to whittle down these rights".

1. Right to equality (Article 14, 15 and 16)

The right to equality and equal protection of the laws is not an unrestricted right. Reasonable restrictions may be impose upon this right. This world is full of inequalities, social, economic and political. Such inequalities still exist in the society. Resort to fundamental right of equality before law is made occasionally to prevent discrimination and sometimes to uphold discrimination as a reasonable restriction on the right of equality.

Equality before law

"The State shall not deny any person equality before the law and the equal protection of the laws".

PROHIBITION AGAINST DISCRIMINATION ON GROUNDS OF RELIGION, RACE, CASTE, SEX OR PLACE OF BIRTH

The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

EQUALITY OF OPPORTUNITY IN MATTER OF EMPLOYMENT

1. There shall be equality of opportunity for all citizens in matters realign to employment or appointment to any office under the State.
2. No citizen on grounds only of religion, race, caste, sex place of birth, residence or any of them be ineligible for, or discriminated against in respect of any employment of office under the State.

2. RIGHT TO SIX FREEDOMS – ARTICLE 19

Article 19 provides for protection of certain rights regarding freedom of speech, etc. These are –

1. All citizens shall have the right
   a) To freedom of speech and expression
   b) To assembly peaceable without arms
   c) To form association or units
   d) To move freely throughout the Union of India
   e) To reside and settle in any part of the territory of India
   f) Right to property has been omitted by 44th Amendment of the constitution (20.6.1979) and now only a right.
   g) To practice any profession, or to carry on any occupation trade or business. Certain restriction have been imposed on the operation of these freedom.

3. RIGHT TO LIFE AND PERSONAL LIBERTY (Article 20.21 and 22)

ARTICLE 20. PROTECTION IN RESPECT OF CONVICTION FOR OFFENCES

1. No person shall be convicted of any offence except for violation of a law in force at the time of commission of the act charged as an officer nor be subjected to penalty greater than which might have been inflicted under the law in force at the time of the commission of the offence.
2. No person shall be prosecuted and punished for the same offence more than once.
3. No person accused of any offence shall be compelled to be a witness against himself.

ARTICLE 21. PROTECTION OF LIFE AND PERSONAL LIBERTY

Article 21. provides that no person shall be deprived of his life and personal liberty except according to procedure established by law.

The following rights flow the provisions of Article 21 of the Constitution

A. Right to be free from torture or maltreatment

B. Right to get legal aid in certain circumstances,

C. Right to speedy trial, and

D. Right to compensation of the victim and the accused.

PROTECTION AGAINST ARREST AND DETENTION IN CERTAIN CASES

Article 22 of the Constitution provides that

1. No person who is arrested shall be detained in custody without being informed, as soon as may not be, on the grounds of such arrest not shall be denied the right to consult and to be defended by a legal practitioner of his choice.

2. Every person who is arrested and detained in custody, shall be produced before the nearest Magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey room the place of arrest to the court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

The procedure to be followed by an Advisory Board in an inquiry.

This Article consists of two parts clauses 1. and 2. apply to persons arrested or detained under a law otherwise than a preventive detention law, (clauses 4. To 7) Apply to persons arrested or detained under a preventive detention law.

This Article provides protection to a person arrested and detained in police custody, laying down that

i. such person must be informed of the grounds of detention as soon as possible;

ii. He must be produced before a Magistrate within twenty four hours of his arrest

iii. He is entitled to consult and to be defended by an Advocate of his choice and

iv. If such a person is to be detained for a period of more than twenty-four hours, then it can be done only with the authority of the Magistrate.

The requirement of clause of this Article is that an arrested person must be informed as soon as may be of the grounds of arrest. This is an imperative requirement. If information is not given to him within resonable time, then there must be some valid reason for the delay. Under this clause it is not essential that the arrested person should be furnished with full detail of the office. But nevertheless, the information furnished to him should be such as to enable him to know as to why and for what offence he has been arrested. It would to be sufficient to inform him that he has been arrested under such and such section of an Act or ordinance, or Regulation of law, but he must be given such grounds of arrest as are intelligible. The court can go into the question of sufficiency of the grounds furnished to him or to other circumstances of the case. If the court finds that the grounds are insufficient or no proper grounds are furnished to him, the detention would become unlawful and the detente would be entitled to be released forthwith.

Even when a person is released on bail, the obligation of the government to furnish him with the grounds of arrest does not come to an end. In this connection it may that Article 22 has been enacted, on the one side it affording him an earliest opportunity to remove any mistake, misapprehension, or misunderstanding in the mind of the arresting authority, and on the other side, to enable the detente to prepare for his defense and to move the Court for a writ of Habeas Corpus or bail. The requirement of producing the arrested person before a Magistrate within twenty – four hours is mandated with a view to avoid any miscarriage of justice, or arbitrary arrests or victimizing arrest. The executive action of arrest is required to be approved by a court at the earliest possible opportunity. This requirement is so stringent that if a person is arrested without a warrant issued by a Magistrate, he should not be produced before the same Magistrate who issued warrant of arrest, because of the principle of natural justice that no one can be judge of his own cause.

RIGHT TO FREEDOM OF RELIGION (ARTICLES 25, 26, 27, 28) FREEDOM OF CONSCIENCE AND FREE PROFESSION: PRACTICE AND PROPAGATION OF RELIGION

Article 25 provides that

1) Subject to public order, mortality and health, and to the other provisions of this part, all persons are equality entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

2) Nothing in this Article shall affect the operation of any existing law or prevent the state from making any law:

a) Regulating or restricting any economic, financial, political or other secular activity, which may be associated with religious practice.

b) Providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

FREEDOM TO MANAGE RELIGIOUS AFFAIRS

Article 26 provides that every religious denomination or any section thereof shall have right.

i. To establish and maintain institutions for religious and charitable purpose

ii. To manage its own affairs as matters of religion

iii. To own and acquire movable and immovable property; and

iv. To administer such property in accordance with law.

FREEDOM AS TO PAYMENT OF TAXES FOR PROMOTION OF ANY PARTICULAR RELIGION

Article 27 of the Constitution provides that no person shall be compelled to pay any taxes, which are especially appropriate in payment of expenses for the promotion or maintenance of particular religions.

The provision of this Article aims at to check the state from imposing any tax for promotion of any particular religions in order to save the secular character of the state and not to become a theocratic state like an Islamic state.

FREEDOM AS TO ATTENDANCE AT RELIGIOUS INSTRUCTION OF RELIGIOUS WORSHIP IN CERTAIN EDUCATIONAL INSTITUTIONS:

Article 28 provides that

1. No religious instruction shall be provides in any educational institution wholly maintained out of state funds.

2. The above provisions shall not apply to an educational institution, which is administered by the state but has been established under any religious endowment or trust, which requires that religious instruction shall be imparted in such inhibition.

3. No person attending any educational institutions recognized by the state or receiving aid out of state funds shall be required to take part in any religious instruction that may be imparted in such institution or in any premises attached thereto unless such person or, if such person is a minor his guardian has given his consent thereto.

Under Article 28 of the Constitution nobody can be compelled to receive religious instructions. Under the second and third categories of institutions imparting education, no person attending such as institution can be completed to receive religious instructions or to attend any religious worship or service imparted or conducted by such institution. But if a person is a minor, his or her guardian if so choose, then such person can be obliged to attend such religious instruction or attend the particular type or worship which such institution is affiliated with.

V. CULTURAL AND EDUCATIONAL RIGHTS

(Articles 29 to 30)

A. PROTECTION OF INTERESTS OF MINORITIES.

Article 29 provides

1. Any section of the citizen residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

2. No citizen shall be denied admission into any education institution maintained by the state or receiving aid out of state funds on grounds only of religion, rece, caste, language or any of them.

In the Ahmedabad St. Xavier's College Society V. State of Gujarat, the Supreme Court expressed its view expressly that " The State's interest in education, so far as religious minorities are concerned, would be served sufficiently by reliance of secular education accompanied by optional religious training in minority schools and colleges, if the secular education is conducted there according to the prescribed curriculum and standard. The supreme Court in Ahmedabad St. Xavier's case. Observes that the real reason embodies in Article 30(1) of the Constitution is the conscience of the nation that the minorities, religious as well as linguistic, are not prohibited for establishing and administering educational institutions of their choice for the purpose of giving their children that best general education to make them complete men and women of the country. The minorities are given this protection under Article 30 in order to preserve and strengthen the integrity and unity of the country. The sphere of general secular education is intended to develop the commonness of boys and girls of our country. This is in the true spirit of liberty, equality and fraternity through the medium of education. If religious of linguistic minorities are not given protection under Article 30 to establish and administer educational institutions of their choice, they will feel isolated and separate. General education will open doors of perception and act as the natural right of mind for our countryman to live in the whole.

This observation of the Supreme Court makes it clear that the minority education institutions have no right to impose compulsorily the education of religious denomination o religious sect or religion, upon all the students getting education in it. Religious teaching may only be optional to those students education in it. Religious teaching may only be optional to those students who opt to accept it to their guardians, in case of their minority, give consent to impact such education or training to their wards.

Rights to property

The 44th Amendment to the Constitution has abolished the fundamental right to property. It is now only a general right of the citizen. Article 31 along with Article 19(1) (f) and clause (5) of Article 19 laid down that every citizen had the right to acquire, hold and dispose of property subject and state's right of imposing by law reasonable restrictions on its exercise in the interest of the general public on for the protection of the interest of any scheduled Tribe. Article 31 laid down that no person could be deprived of his property "save by the authority of law" and that no property could be compulsorily acquired of requisitioned "save for the public purpose and save by the authority of law" The fundamental right to property has been abrogated by the 44th Amendment to the Constitution and by this Amendment Articles (19) f and Articles 31 have been omitted. The object of the Amendment is to take away the right of property from the category of fundamental rights and make the same a right, which can be regulated by ordinary law.

VII Right against exploitation (Articles 23 and 24).

Prohibition of Traffic in human beings and forced labour

Article 23 provides that

(1) Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provisions shall be an offence punishable accordance with law

(2) Nothing in this Article shall prevent the State from imposing compulsory service for public purpose and in imposing such service the race, caste or class or any of them.

This Article prohibits –

(a) Traffic in human beings

(b) Beggar and

(c) Other similar forms of forced labour

However an exception is made to this provision that compulsory service may be imposed upon citizen without any distinction of caste, race, religion or class for public purposes.

Under Article 23(1) traffic in human beings, take slavery, bonded labour, compulsion of ladies to prostitution or call girls, immortal affairs etc, have been prohibited in all the forms whatsoever the ways exploitation may be. It is correct that slavery of slave trade is not the business of Indians on the land of India or any where through them. But immortal traffic in women is found on a large scale in the country. For checking and preventing the evil of immortal traffic of women and girls by the devils in the Indian soil, the Union of India for inflicting punishment on those who are engaged in the business of include the disposal of women and girls abducted or kidnapped by the professional criminals by way of sale as movable properties. Such offence is punishable under sections 370 of the Indian Penal Code also which provides that whoever imports, exports removes, buys, sells or dispose of any person as a slave or accepts, receives or details against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend. Seven years and shall also be liable to fine.

B. PROHIBITION OF EMPLOYMENT OF CHILDREN IN FACTORIES ETC,

Article 24 of the Constitution provides that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous engagement. The provisions of this Article are in consonance with clauses (e) and (f) of Article 19. According to Article 45 which lays down the Directive principle of State policy that the State shall endeavor to provide within the period of ten years from the commencement of the Constitution, free and compulsory education for all children until they complete the age of fourteen years.

The Employment of Children Act 1938 prohibits employment of children below the age of 15 years (a) to work in any occupation connected wit the transport of passengers, goods, or mails by railways or, (b) to be employed or permitted to work in any occupation involving handling of goods within the limits of any port. The Act also prohibits employment of children below 12 years in an workship wherein any of the process such as body manufacturing, explosives, firework, mica cutting and splitting, soap manufacturing and wood clearing is done. The Factories Act, 1948 also prohibits employment of children for pressing cotton work in any factory. The Mines Act, 1952 also contains similar provisions.

VIII. RIGHT TO CONSTITUTIONAL REMEDIES (ARTICLE 32-35)

(ARTICLES 32-35)

A. REMEDIES TO ENFORCEMENT OF FUNDAMENTAL REMEDIES

Article 32 provides that

(1) The right to move the Supreme Court appropriate proceedings for the enforcement of the right conferred this part (i.e. part III Fundamental Rights) is guaranteed

(2) The Supreme Court shall have powers to issue directives or orders or writs in the nature of Habeas Corpus, Mandamus, Prohibition, quo warranto and Certiorari whichever may be appropriate, for the enforcement of any of the right conferred by this part.

(3) Without prejudice to the powers conferred on the Supreme Court by the clauses (1) and (2) Parliament may be law empower any other Court to exercise within the local limits of its jurisdiction all or any of the powers exercisiable by the Supreme Court under clause (2).

(4) The right guaranteed by this Constitution. The enumerated and guaranteed fundamental rights enunciated principles of justice's as are the human rights declared under the Universal Declaration of Human Rights provided under Article 32 of the Constitution.

In case of violation of these rights the Supreme Court can be moved under Article 32. A High Court having its territorial jurisdiction may also be moved in case of breaches of fundamental rights, besides the breaches of legal previous under Article 32 of the constitution.

Fundamental Duties

The original constitution did not contain any provision specifying the Fundamental Duties of the citizens. Part IV - A added by the 42nd Amendment Act, enumerates the Fundamental Duties.

They are :

a) To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

b) To cherish and follow the noble ideals which inspire our national struggle for freedom;

c) To uphold and protect the sovereignty, unity and integrity of Indian;

d) To defend the country and render national service when called upon to do so;

e) To promote harmony and the spirit of common brotherhood amongst all the people of India, transcending religious, linguistic and regional or sectional diversities and to renounce practices derogatory to the dignity of women;

f) To value and preserve the rich heritage of our composite culture;

g) To protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures'

h) To develop the scientific temper, humanism and the spirit of inquiry and reform;

i) To safeguard public property and to abjure violence.

j) To strive towards excellence in all spheres in individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement.

There can be no claim to a Fundamental Right against these duties.

Model Question

1) Estimate the fundamental Rights of Indian Constitution.

2) Examine critically the Fundamental Rights and their safeguards provided by the Indian Constitution.

3) Analyse the position of Fundamental Duties under the Indian Constitution.

lesson - 10

DIRECTIVE PRINCIPLES OF STATE POLICY AND HUMAN RIGHTS

Directive Principles of State Policy (DPSPs), given in part IV of the Constitution of India, are certain directions given to the central and state governments to establish a just society in the country. The government must keep them in mind while framing laws or policies. They are non- justifiable in nature and they aim at achieving social and economic democracy for establishing a welfare state. The concept of Directive Principles of State policy has been borrowed from the Irish constitution. The makers of the Constitution of India had great admiration for the Irish nationalist_movement. While framing the Directive principles, they were inspired by the Directive principles of State Policy given in the Irish Constitution. But the idea of such policies "can be traced to the Declaration of the Rights of Man proclaimed and Revolutionary France and the Declaration of independence by the American Colonies" The makers of the Indian constitution were also inspired by the United Nations Universal Declaration of Human Rights.

Aim of Directive Principles of State Policy

Directive Principles of State Policy aim to create social and economic conditions under which the citizen can lead a good life. They also help to establish social and economic democracy through a welfare state. They act as a check on the government. They are as yardstick in the hands of the people to measure the performance of the government and vote to put of power if it does not fulfil the promises made during the elections.

Characteristics of Directive Principles of State Policy

The Directive principles are non- justiciable rights of the people. These provisions are not enforceable in a court law. If a directive is infringed, no remedy is available to the aggrieved party by way of judicial proceedings. The Directive Principles, though not justiciable, are fundamental in the governance of the country. It shall be the duty of the states to apply these principles in making laws. Besides, all executive agencies should also be guided by these principles. Even the judiciary has to keep them in mind in deciding cases.

Article 31-C, inserted by the 25th Amendment Act of 1971 seeks to upgrade the Directive principles. If laws are made to give effect to the Directive principles over Fundamental Rights, they shall not be invalid on the grounds that they take away the Fundamental Rights.

Importance of Directive Principles of State Policy

Directive Principles of State Policy promote an environment where the citizen's life becomes comfortable and meaningful. If the government fails to provide these conditions, the citizen are free to vote that government out in the next election and elect a new government. However, if a government does not adhere to the Directive Principles of State Policy, no punishment can be meted out since they are only guidelines; and not laws; and are hence, non –justiciable. This means that a person cannot go to court if the government makes a law which is not adherence to the Directive Principles of State Policy Directive Principles of State Policy make the citizens aware about the inhuman treatment meted out to human beings in different parts of the world. Our policy framers have to keep such situations in view and frame policies which will make our society where there will be justiciable and well being. In case of a conflict between fundamental Rights and Directive Principles of State Policy if the Directive Principles of State Policy aims at promoting larger interest of the society, the court will uphold the case in favor of the Directive Principles of State Policy.

Implementation of Directive Principles

The following are the efforts made by the state to implement the Directive Principles.
Social Justice

The programme of Universalization of Elementary Education has been according the highest priority to provide free education to all children up to the age of 14 years. The 86th constitutional amendment of 2002 inserted a new article, Article 21-A into the Constitution, which seeks to provide free and compulsory education to all children aged 6 to 14 years. Welfare schemes for the weaker sections are being implemented both the Central and State governments. These include programmes such as boys and girls hostels for scheduled castes or scheduled tribes students. The year 1990-1991 was declared as the "Year of Social Justice" in the memory of B.R Ambedkar. The government provides free textbooks to students belonging to scheduled castes or scheduled tribes pursuing medicine and engineering courses.

In order that scheduled castes and scheduled tribes are protected from atrocities, the Government enacted the Prevention of Atrocities Act, which provided severe punishment for such atrocities

Economic welfare

Several Land Reform Acts were enacted to provide ownership rights to poor farmers Up to September 2001, more than 200 Lakh acres of land had been distributed to scheduled castes, scheduled tribes and the landless poor. The thrust of banking policy has been improve banking facilities in the rural areas. Nationalised banks were liberal in advancing loans to poor farmers \, artisans and those wishing to set up cottage industries. The minimum wages Act empowers government to fix minimum wages for employees engaged in various employment. The equal Remuneration Act of 1976, provides for equal work both men and women. The *Sampoorna Grammeen Rozar Yojana* was launched in 2001 to attain the objective of gainful employment for the rural poor. The programme was implemented through the Panchayati Raj institutions.

Legal and administrative matters

Panchayati Raj now covers almost all states and union territories. One – third of the total number of the seats have been reserved for women in Panchayats at every level, in the case of Bihar, half the seats have been reserved for women. Legal aid the expense of the state has been made compulsory in all cases pertaining to criminal law, if the accused is too engage a lawyer. Judiciary has been separated from the executive in all the states and Union territories Jammu and Kashmir and Nagaland.

Foreign Policy

India's Foreign Policy has also to some degree been influenced by the Directive Principles of State Policy. India has in the past condemned all acts of aggression and has also supported the United_Nations' peace – keeping activities. BY 2004, the Indian army had participated in 37 UN peace keeping operations. India played a key role in the passing of a UN resolution in 2003, which envisaged better cooperation between the security council and the troop contributing countries. India has also been in favour of nuclear disarmament.

Lesson 11

CAPITAL PUNISHMENT

CAPITAL PUNISHMENT is considered as cruel, inhuman uncivilised and barbaric one. Despite, this practice is still in existence There is difference of opinion among the Juries and other eminent politicians about the imposition of capital punishment. So the question arises whether it should be abolished or retained? Here the very right to life, as guaranteed by the Constitution and UN Declaration is violated. But if we analyse, the IPC in detail, we can find, the provision for capital punishment i e., a person's life is liable to be extinguished any time after he has extinguished the life of another Of course every one has the right to live. But none can divest anyone of his 'right to life'. If one does indulge so, it has to be at the cost of his own life. Certain learned jurists have undermined the fact that even right to life is not an absolute right. The question is how can one enjoy life at the cost of another man's life The international trend is in favour of abolition of death penalty. the UDHR in its Articles 3 and 5 provide, "Every one has the right to life, liberty and security of person" and "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" The International Covenant on Civil and Political Rights (1966) in its Article 6 provides, "Any one sentenced to death shall have the right to seek pardon or commutation of the sentence amnesty, pardon or commutation of the sentence of death may be granted in all cases". It also provides that "Sentence of death shall not be imposed for crimes committed by persons below 18 years of age and shall not be carried on pregnant women".

The world level trend is in favour of abolition of capital punishment. In U.S.A capital sentence was challenged in Furman's case on the ground of its violating the 8 and 14th Amendments Some judges of U S declared the capital punishment as unconstitutional. The 8th Amendment of the U S Constitution observes that cruel and unusual punishments clause prohibits the infliction of uncivilised and inhuman punishment. Even if such punishment is pronounced the State must treat its members with respect for their intrinsic worth as human beings A punishment "cruel and unusual" does not comport with human dignity.

There is a persistent trend internationally to abolish the death penalty and India is among 76 countries that retain the death penalty. World wide 120 countries have abolished the death penalty in law or practice· 85 countries – for all crimes: 11 countries for ordinary crimes (the death sentence is available only under military law and for treason or crimes committed in exceptional circumstances), and 24 countries – in practice (the death sentence exists in law, however the states has not carried out an execution in more than a decade and has expressed its intention not to execute

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, as proclaimed in the Universal Declaration of Human Rights. The death penalty is an inherently unjust and arbitrary punishment, however heinous the crimes for width it is inflicted. Studies globally suggest that is more likely to be imposed on those who are poorer, less educated and form marginalized segments of society. The death penalty is irrecoverable, yet the risk of error in its application is inescapable. Amnesty international recognizes the need to combat violent crime but there is no convincing evidence that the death penalty deters crime more effectively than other punishment. Amnesty international believes that prolonged detention of people under sentence of death must be considered cruel, inhuman and degrading. A number of judgement in India and other countries have ruled that long waiting periods for prisoners facing executive amount to inhuman or degrading punishment or are brutalizing to the human sprit.

The death penalty in India

In 1983, Supreme Court of India ruled that the death penalty can only be applied in the "rarest of rare" cases. Since this is not further defined and no clear guidelines exist, the use of the death is largely dependent on the interpretation of this phrase by individual judges. The first know execution since the late 1990s took place in August 2004 amid widespread popular support,. This raised fears that others now on death row on death row in India may also soon be executed. Dhanarrjoy Chatterjee executed at 4.30 a.m on 14 August 2004. He had been sentenced to death in August 1991, for the rape and muted of a schoolgirl in her apartment in Calcutta in March 1990.

The Indian authorities have opposed the death penalty in some cases but condoned it in others. In 2004, the government request mercy for Indian national Ayodhya Prasad Chaubey , who was executed in Indonesia on 5 August 2004 on drug- trafficking changes, but the Government has condoned other execution of Indian citizen. The number of execution carried out in India is unknown. In May 2005, an Indian human rights group, the People's Union for Democratic Right (PUDR), called on the Government of India to make public all information on executions since independence in 1947. Indian media have reported that there have been 55 execution since independence. PUDR has challenged this figure, stating that according to a 1967 Law Commission report, at least 1,422 people were executed between 1953 and 1963.

There is no consistency across Indian states with regard to disclosure of death penalty statistics. The Delhi Deputy Director General of Prisons stated it was not in "in the public interest" to publish such figures while official in Maharashtra state disclosed statistics upon request. Later this year, the Indian non – governmental organization, the people's Union for civil Liberties and Amnesty International will request several Indian states to make public their death penalty statistics. Well known death sentences in India are of persons convicted of assassination major political leaders as in the killings of Mahatma Gandhi and Rajiv Gandhi, or for crimes under 'terrorist' laws, as in the attack on the Indian Parliament in 2001. These sentences have been awarded without considerable alternation.

The recently published legal casebook, can society escape the Noose> the death penalty in India, contents that of the thousands of murders committed each year in India, it is the poor and underprivileged and person belonging to minority groups who eventually receive the death sentence and are executed for their crimes. All execution in India are by hanging or reportedly by shooting, however the Law Commission of India has recommended letter injection as a more 'humane' mode of execution. Amnesty international is concerned that the death penalty is the ultimate cruel, inhuman and degrading punishment and there can be no 'humane' way to execute someone.

Cases from India

Below are cases from India of persons who have received the death penalty. Amnesty international's concerned about fair trial issues, risk of executive the innocent and the cruelty association with prolonged detention.

The Law Commission of India was given the task of examining the law regarding capital punishment in India and recommend the measures for abolishing, retaining or modifying it. A resolution was moved in the Lokh Sabha, to abolish death sentence and this was taken to the notice of Law Commission. The Law Commission under the Chairmanship of J.L. Kapur, examined it in detail, and its recommendations revealed that it was not in favour of abolition of death sentence in India because of the inherent risks involved in such abolition. The summary of its recommendations is "Having regard; however, to the conditions in India, to the variety of the social upbringing of its inhabitants, to the disparity in the level of morality and education in the country, to the vastness of its area, to the diversity of its population and to the paramount need for maintaining law and order in the country at the present juncture, India cannot risk the experiment of abolition of capital punishment." The Law Commission stressed that the Court should state the reasons as to why it chooses life imprisonment or death, as the case may be in a given situation. While the Commission

recommended an amendment in the Criminal Procedure Code, it stated that "Thus, there appears to be sufficient justification for a provision requiring the court to state its reasons, whenever it awards either of the two sentence in a capital case."

Chatterjee (m) executed 14 August 2004 for the repe and murder of a school girl in Calcutta in March 1990.

There were vigils and protests across India the right before the execution. Following the hanging the executioner apparently broke down and resigned, after offering prayers for Dhananjoy chatterjee.

Amnesty international also expressed concerns that the 13 years Dhanamjoy chatterjee spent living with the mental anxiety caused by being sentenced to death may have amounted to cruel, in human and degraded punishment and that the decision to carry out the executive was an arbitrary one. Other courts in India have commuted a death sentence to life imprisonment on the grounds of prolonged detention. In 1989, an Indian court commuted the death sentence imposed on Gyasi Ram to life imprisonment on the grounds that he "had suffered the mental agony of living under the shadow of death for far too long. "Gyasi had been awaiting a decision on a mercy petition for eight years..

They were convicted of a "terrorist act" under the now lapsed 1987 terrorist and Disruptive Activities (prevention) Act (TADA Act); which gave police sweeping powers to arrest and detain without trial under the acts vague and imprecise provision. It was used to arrest among others, members of vulnerable groups. TADA provisions contravene essential legal safeguards for fair trials. For example, provisions contravene Article 14 of the International convention on civil and political Rights including the presumption of innocence until proved guilty, the right of the accused to be promptly informed of the charges against them, the right to be tried without undue delays as well as the right to examine witness against them. In 1992 the Chief Minister of Bihar admitted that innocent people had been detained under the Act.

The Supreme Court of India rejected the men's appeal by two votes to one. The dissenting judge noted the "defective" investigation of the killings, particularly in the recording of witness statements. For example, statements were taken well after the incident. He was also critical of the fact that the prosecution has not examined the investigation police officer and there had been no identification parade of the accused. Amnesty international is concerned that the men's trial fell short of international fair trial standards.

Model Question

Point out the rationale of capital punishment

Lesson - 12

BONDED LABOUR

The System of "Bonded Labour" constitutes a major problem in our society. It is an outcome of certain categories of economically exploited, helpless and weaker sections of the society. This system originated from the uneven social structure characterized by feudal and semi – feudal conditions. According to National Commission on labour, "Bonded labour can best be described in terms of debt bondage fixed for a time or hereditarily descending from father to son in some cases", The Indian school of Social science has defined bonded labour as a social agreement between a debtor and creditor under which the debtor agrees to render labour or personal services to the creditor without remuneration in lieu of the satisfaction of the debt or part of debt or interest on principal amount for a specific period or till the debt is satisfied or repaid.

The two essential ingredients of bonded labour thus are: (1) indebtedness and (2) forced labour. The National Commission on Agriculture has accordingly observed: " The prominent feature of the system of bonded labour is that a man pledges his person or sometimes members of his family against a loan" indebtedness has rightly labeled as "the mother of bonded labour". Being compelled to take loan and do forced labour in lie thereof.

History of Bonded Labour

The bonded labour is prevalent since ancient period. It is present in countries like India, even after her independence. It was referred as slavery in Greek and Rome. Poverty, the greed of the landlords and money lenders, usherers etc. made the western slave owning society, to own slaves and provide opportunities for the growth of slavery: The slaves underwent frightful abuses and cruelties and as such they lost their human dignity. They were at the bottom of the heap. So the real slaves was in bondage. Liberty, richness and peace are not known to a slave. In England, slaves were openly sold in auction. Mostly Negroes were sold as slaves. During the time of American war of Independence (1776) many people had realised that slavery was wrong. At one stage prohibition of slavery was tried at. In due course, a large number of people in North America felt that slavery was an evil practice and it should be eradicated throughout the State. This led to the passage of 'Slaves Emancipation Act in 1863 by Abraham Lincoln.

Bonded Labour in India Before and Since Independence

The system of bonded labour existed in India in various names such as slavery, serfs, bondage, forced labour, exploited labour etc. In India its existence could be traced from the period of Indus Civilisation. Due to the coming of Aryans in India the caste system came into force. Sudras, the last cadre of society, were treated as slaves and untouchable. In the Buddha Jataka stories, we find evidence that speak about slavery. So also in Epics. Kautilya, in his Arthashasthra mentions that a man could be slave either by birth or by profession. We get further evidences of forced labour during the period of Guptas, Harsha etc. The Chola period in South India, speaks about 'Vettian' - a sort of forced labour. During the period of Moghuls slavery increased. Though Akbar tried to abolish slavery, he could not succeed in his attempt.

During the British period the Slavery Abolition Act was passed in 1843. Then came the forced labour. Indian Penal Code prohibited forced labour in 1860. On the abolition of slavery, the vested interests called it in a new name to evade the provisions of the above said Acts. Thus came the name of bonded labour. These bonded labourers are called in different names in different states of India. In Tamil Nadu they are referred as Velaikaran (Paniyal), in Kerala Cherumar, in Orissa Halios, in Andhra Pradesh Jassigula, in Gujarat Hali, in Karnataka Jeetha and the like. These bonded labourers were mostly poor, dalits and tribals.

At one stage Zamindari System was abolised in India. The Annual Report of the Commission for Scheduled Castes and Scheduled Tribes give a complete picture of bonded labour. As per the survey conducted by the National Labour Institute (1978) it was estimated that there were about 13 lakh bonded labourers in India. Almost every state in India has bonded labourers. In 1984, more than one lakh bonded labour in society. Various studies reveal that in many parts of India, the practice of bonded labour still continues. It was reported in Hindustan Times that about 3000 bonded labourers are subject to exploitation. There is no reliable data available about the exact number of bonded labours in India.

The Right to live with human dignity is once for all forgotten. Neither the Government of India nor the State governments have the right to take any action that may deprive a person from enjoying the basic rights as envisaged in the Directive Principles of State Policy (Articles 39, 41 and 42) Bonded labourers, even after many years of independence are found in various occupations eg. agriculture, industries, stone quarries, brick industries, building construction sites, powerloom centres, match industries, knit wear industries, mines, jewel manufacturing centres, diamond and gem cutting industries, carpet industry, hotels and other establishments.

According to the findings of a survey jointly undertaken by the Gandhi peace foundation and the National Labour Institute in 1978, the number of agricultural bonded labourer is estimated to be 26.17 lakhs. The largest concentration is in Uttar Pradesh followed by Madhya pradesh 95 (lakhs), Orissa (3.50 lakhs), Andra Pradesh (3.25 lakhs) Tamil Nadu (2.50 lakhs), Karnataka 91.93 lakhs), Gujarat (1.71 lakhs), Bihar (1.11 lakhs), Maharastra (1.00 lakhs), and Rajasthan (0.67 lakhs). This is gradually declined to-day The other findings of the survey are : most of the bonded labourers, 86.6 percent of the total, come from the scheduled castes and scheduled tribes; twenty – five per cent of bonded labourers are below the age of 20 years. Thirty per cent of bonded labour families send two or more of their family members into bondage. About twenty per cent of bonded laboureres have not taken any loan de jure. A labourer is in bondage for six years on an average; in Bihar, Maharashtra and Uttar Pradesh the duration of bondage is longer (abover ten years) whereas it is shorter in Andra Pradesh, Gujarat and Orissa (three to four four years); fifty – five per cent of bonded labourers take loans for the purpose of domestic expenditure; forfeiting the right to seek alternative employment is one of the essential elements of bondage. The largest group of masters (45 per cent) comes, from upper case Hindus, where as 15 per cent belong to backward classes. Fifteen per cent of the masters belong to scheduled castes and 13 per cent to scheduled tribes. Fifty – one percent of the masters employ two to five bonded labourers, 5.5 per cent employ six to ten bonded labouers, whereas 40 per cent of the ,masters keep only one bonded labourer.

Measures for abolition of the bonded labour system

Measures to abolish the barbaric practice of bonded labour have been initiated since the advent of the British rule and various international conventions held from time to time such as the forced labour convention of 1930, the Universal Declaration of Human Rights, 1948, the supplementary convention on the abolition of slavery, the slave trade and institutions and practices similar to slavery adopted by the conference convened under the auspices of the United Nations in 1956, and the Abolition of Forced Labour convention, 1957 have contributed to urge the government to take necessary steps to eliminate the menace of this crime against humanity by passing necessary legislation of the subject. The Constitution of India provides for it in Article 23. After the adoption of the Constitution, State governments had passed legislations on the subject like the Andhra pradesh (scheduled Tribes) Money lenders Regulation, 1964; Assam Rural Indebteders Relief act, 1975; U.P. Landless Agricultural Labour Debt Relief Act 1975; Orissa Dadan Labur Control and Regulation Act 1975; Inter – state Migrant workmen (regulation of Employment and

condition of Services and Miscellaneous provisions) Act, 1979.

The Indian Penal Code (Section 371) also provides that "whoever unlawfully compels any person to labour against the will of that person shall be punished with imprisonment of *either description which many extend to one or fine or with both". Serious efforts in the* direction of statutory abolition of bonded labour through out the country were made only after the announcement of the twenty – point programme in 1975 which unequivocally declared, "the practice of bonded labour is barbarous and will be abolished. All contracts or other arrangements under which services of such bonded labourers are secured, will be declared illegal." In pursuance of this declaration, the bonded labour System, ordinance, abolishing bonded labour with immediate effect, was promulgated on 4 October, 1975 which became the bonded Labour System (Abolition) Act on 2 Febuary 1976. The revised 20 point programme 1986 stipulates: (i) full implementation of laws abolishing bonded labpour and (ii) involvement of voluntary agencies in the programme of bonded labour.

The first implies (i) identification, (2) release (3) action against (4) constitution and holding of regular meetings of the vigilance committees at the district and sub- divisional levels. (5) Conferring of powers of judicial magistrates on Executive Magistrates under section 21 of the Bonded Labour System (Abolition) Act, 1976, and (6) maintenance of the registers etc. as prescribed under Rule 7 of the Bonded labour System (Abolition) Rules, 1976.

The responsibilities for identification, release and rehabilitation of bonded labourers rest with the state governments who are the implementing authorities under the Bonded labour system (Abolition) Act 1976. The incidence of bonded labour system has been reported from 12 states viz., Andhra Pradesh, Bihar, Gujarat, Haryana, Karnataka, kerala, Madhya Pradesh. According to the state Government all the bonded labourers in kerala and Gujarat have been detected there. In Uttar Pradesh there was no backlog for rehabilitation of bonded labourers at the end of 1987-88. They had, however, identification 901 bonded labour in 88. Out of these, 417 had been rehabilitated. According to the latest reports of the state Governments, the total number of bonded labourers identified and freed as on 88 was 2,36,868 out of which 2,03,035 had been rehabilitated.

With a view to supplementing the efforts of the state Government in rehabilitation of bonded labourers, the Ministry of Labour launched a Centrally sponsored scheme from 1978-79 under which the State Governments are provided central financial assistance of, on a matching grant (50: 50) basis for rehabilitation of bonded labourers. This scheme

originally envisaged provisions of financial assistance upto a ceiling limit of Rs. 4000 per bonded labourer which has since enhanced to Rs 6,250 with effect from 1.2.1986. The rehabilitation scheme can be either land based or animal husbandry based or skill/ craft based depending up in the aptitude, skill and preference of the beneficiary. The land – based scheme comprises (i) allotment of land (ii) provision of back-up service and facilities such as plough, bullocks, seeds, fertilizers etc. Animal husbandary based schemes involve supply of productive assets and linkage with the market. The skill/crafts based schemes involve identification of skill/crafts, supply of raw material, working capital, sheds; implements and linkage with the market.

For speeding up the pace of rehabilitation of bonded labourers the state governments have been allowed to delegate powers for sanction of rehabilitation schemes to the District Collectors/ Divisional Commissioners by setting up the Screening Committee at the District level. Prior to this, such power were vested with the State governments. The State governments have also been requested to set up a Monitoring and Review Committee at the State level under the Chairmanship of the Chief Secretary or some other Senior Officer which will meet every quarter to monitor and review the progress of the programmes of rehabilitation of bonded labour both in physical and financial terms and make suitable recommendation. The Director General (labour welfare), Ministry of Labour is to be associated as a Member of the Committee.

Senior officers from the Ministry of Labour visit different States to conduct on the spot review of the measures taken by the State Governments for identification, release and rehabilitation of bonded labourers. The deficiencies observed during these reviews are communicated to the respective state governments for necessary corrective action. Based on such reviews, instructions and guidelines on the subject of bonded labourers are also issued to the state governments for effective implementation of the programme.

An envisaged in the 20 point programme 1986 A New plan scheme "grant in aid to Voluntary Agencies in the identification and rehabilitation of bonded labourers has been launched since 30th October 1987. Rs. 100 crores and Rs. 5.00 lakhs have been provided for the 7th Five year plan (1985 – 90) and annual plan (1988-89) respectively.

Steps taken by the government to abolish Bonded labour since Independence

1. Article23(1) of the Indian Constitution provides that "Traffic in human beings ànd beggar and other similar forms of forced labour are prohibited and any contravention of this portion shal be an offence punishable in accordance with law."
2. Mines Act of 1952.
3. Contract Labour Abolition Act 1970.
4. Contract Labour (Regulation and Abolition) Act 1970.
5. Bonded Labour System Abolition Act 1976.
6. Equal Remuneration Act 1976.
7. The Inter-State Migrant Workman (Regulation of Employment and Conditions of Services) Act 1979.
8. Child Labour Prohibition Act 1981.

The Supreme Court of India is doing yeoman service to liberate the bonded labourers. It has directed the Central and State governments for the release of bonded labourers and rehabilitation. As per the direction of Supreme Court, the Tamil Nadu government planned to rehabilitate about 10000 bonded labourers in 1997. A state wide survery identified 25,008 bonded labourers. Children and women are also included. They are tortured inhumanly and their working conditions were the worst. They work for 18-20 hours per day without any rest. They are not pemitted to go out of the factories.

Model Question

Briefly explain the problems of bonded labour.

Lesson 13

FEMALE INFANTICIDE

India is the only country in the world where the ratio of women to men has been dwindling over the years. The sex ratio declined from 972 females per 1000 males in 1901 to infant mortality exceeds that of the male. A study reveal that boys are taken to hospital for treatment of common diseases in twice the number of girls. Boys do not fall ill more frequently than girls. They are merely provided with more health care by parents who value sons more than daughters.

India and China are , perhaps the only two countries where there had been a regular practice of female infanticide. When the East India Company came to India it found female infanticide widely prevalent amongst the higher classes of Hindu community. In the year 1789, Jonathan Duncan, a member of the East India company's Civil service, first discovered the prevalence of female infanticide among the Rajkoomar Rajputs in Banares. In a letter to Lord Cornwallis, he said;

I am well assured and it is, indeed, here generally believed and being so, it my duty not to keep such enormities however sanctioned by usage, from the knowledge of the Government, that no infrequent practice among the tribe of the Rajkoomars to extirpate their daughters by causing their mothers to refuse them nurture; whence this race of men do often from necessity, marry into other Rajput families.

In the year 1794 Sir John Shore gave a greater publicity in the existence of the practice by laying the subject before the Asiatic society for its consideration. Duncan;'s remedy was to meet the rajkoomar families and obtained a soleman "Convenant" that they would renounce the practice. He also advocated a system of bribing them, as it were, to abandon it, by proposing to government that pecuniary rewards should be offered for all females that might be born and reared. But this suggestion was not approved. It should be borne in mind that the Rajkoomars killed their female infants for two reasons. First, the practice stated from the time of the Muslim rule when Hindu women were forcibly taken away by the Muslims, and secondly, the father of the girl was not able to find a suitable bridegroom and when found, he could not meet the expenses for the marriage.

Duncan was appointed as the Governor of Bombay and there his work inputting down female infanticide became a matter of history. He found female infanticide prevalent in Surat, Cutch, Gujarat and still more in Rajput ruled princely states. In the neighborhood of Baroda, and more or less along the whole of the western Coast there were numerous and powerful clans calling themselves Rajputs under the title of Jerejahs, among whom female infanticide was found to be universally practiced. The tribe claimed to be among the highest purest branches of the Rajputs families. The origin of the custom amongst Jerejah rajputs is narrated by Colonel walker. A powerful Raja of the Jerejah clan had daughter of singular beauty and accomplishments. Failing and female infanticide from that time was practiced by the Jerejahas. Moreover, the practice of the Muslim and Mughal rulers demanding the daughters of the Rajput rulers in marriage contributed to the custom amongst Rajput rulers in marriage contributed to the custom amongst Rajputs ruling familes. The British Succeeded in putting down the practice.

Affluent rural communities like the Patels of Gujarat and Rajputs have practiced female infanticide for ages. The Patels in the Kheda district of Gujarat had a legacy of female infanticide and this was in practice even three generations ago. As a result, the female ratio came down to 600 and even 200 at one time. The British banned the practice in 1990. The poor resorted to it on account of dowry rich out of a sense of pride – how could a warrior class.

Rich people preferred to keep their property and business within the family – which the daughter divide after marriage. Certain tribal communities and some poor Muslims in Hyderabad are allegedly get rid of their female offspring because they cannot afford to give dowry.

It was reported, as late as in 1986, that there was rampant practice of female infanticide amongst the poverty – ridden kallar community of Usilamplatti taluka in Madurai district of Tamilnadu.

A study reveals that Usilampatti for 1,200 delivery cases come to the hospital every year. Of these, nearly half delivered female babies. Over 95 per cent of the women who give birth to daughters abscond immediately after the babies are born. The statistics are shocking. Nearly, 600 female births in the kallar groups are recorded in the Usilampatti Government hospital every year. Out of 600, nearly 570 new born babies disappear with their mothers no sooner than they open their eyes. Hospital sources estimate that nearly

80 per cent of these vanishing babies – more than 450 – became victims of infanticide. Besides this, deliveries also take place in primary health centres and private nursing homes, maternity hospitals and in their own homes for which no comprehensive and reliable records are maintained. This trend is declined after giving importance to women education and women children is privileged one today initiating the policies like Girl is a Pearl etc.

What was even more shocking was the fact that it was openly practiced and the estimated number of female infanticide ran into thousands, possibly thousands, every year, and deliberate poisoning of a female child had become commonplace. Mothers who had killed their babies, some barely a day old, expressed openly and stoutly defended their action.

Most of the Kallars are poor landless labourers. If a Kallar wanted to get his daughter married to a poor agricultural worker the girl's father has to give Rs.2,000 in cash to the bridegroom and jewellery worth, at least, five sovereigns of gold to his daughter. The dowry system took among Kallars after the dam of the Vaigai river brought irrigation water into Usilampatti taluka about 30 years ago. With property and affluence came increasing dowry demands which today are a part of the Kallar's culture.

These Kallars and Thevars were earlier the warriors for the Chola emperors who ruled parts of Tamil Nadu ten centuries ago. They are basically a warrior caste. Kallar men look down on their women and daughters so much so that a Kallar husband will not come to the hospital to see his new born child, if it is a daughter. In some Kallar families husbands grow madar plants from the time their wives conceive so that they can administer madar poison if a daughter is born.

In some stray instances the Kallar wives refuse to bow to their husband's wishes and they suffer for it. A Kallar husband drove his wife out of their house after she bore him his second daughter because she refused to kill the later. When a son is born it is regarded as a priceless asset and merry making in the family goes on for days together. This attitude in reflected in the tattered clothes worn by daughters and sons dressed in costly clothes. The basic view of women as a born liability because of the dowry evil has taken deep rots among the Kallars, the Thevars and the Gaunders. But no Gaunders are taking to education and birth control, and tne barbaric practice is slowly disappearing. The Gaunders are richer than Kallars because they own land.

The ghastly topic of organized female infanticide in Rajasthan exploded into open vision Bench of the Rajasthan High Court, in its judgment, delivered in October 1988: directed the State Government to register a case and investigated by an officer of the rank of a DIG of Police.

Among the Bhati community, in Rajasthan, female infanticide had been widely prevalent; female infants were routinely killed before they saw the light of the day, outside the mud hovels. The methods are as primitive as the tradition. A bagful of sand is used to suffocate the child. All this is done by the mother while the other women goad her to do away with the unwanted sibling.

The population of Bhati girls, specifically in the cluster of dozen-odd villages on the western border of Jaisalmer, is barely 50, while the total population is over 10,000. And all the girls are less than 10 years old, a pointer that traditions have only recently and slowly begun to change, and not all Bhatis are killing their infant girls. The reason for this centuries-old practice is a complex mix of government neglect, ignorance, superstition, dowry demands and above all, the false pride of Bhatis.

The practice is widespread in the villages of Deora, Baiya, Jhinjhiayail, Maudha, Raudha and Kundu. In these places the literacy rate is a mere 12 per cent. Out of a population of 4901 only 15 women are educated up to the primary level. Lack of education, non-availability of the basic amenity such as hospitals with maternity wards, and backwardness of the people are responsible for the social evil.

Cases of female infanticide are seldom reported to the police. It is very difficult to prosecute when the people of whole village are involved. Female infanticide cannot be dealt with under Section 302 IPC as in other as in other cases of homicide. We have to change slowly the mental habits and outlook of these people by education. The parents are not murderers; they are victims themselves – victims of tradition, ignorance and isolation, poverty and accepted practice of the community. However brutal the crime, there was a certain social justification on their part that cannot be dismissed outright. Government agencies and social organizations have to find ways and means to stop killings.

Discrimination between a boy and girl begins even before birth. Ever since amniocentesis, popularly known as a "sex determination" test and whose real purpose is to detect abnormalities in the foetus, was introduced in India some years ago, reports have been pouring in that the "test" is being used not just to determine the sex of the foetus, but as a prelude to the abortion of a female foetus. The Maharashtra Government had estimated that as many as 45,000 such abortions were carried out in 1985 in the Greater Bombay area alone. From 1979 to 1982 reports, Shoma A.Chatterji, 78,000 female fetuses were aborted by those who had volunteered for the tests. One shudders to think what the figures of whole of India may be, and they would become if amniocentesis becomes freely available in the rural areas. Tamil Nadu Government has banned this test in 2002.

In 1985, more than one lakh of female foetuses were aborted, by couples, in Maharashtra alone, who had volunteered for the tests; in Greater Bombay area as many as 45,000 such abortions were carried out in 1985 and Government hospitals and private nursing homes are active participants in the practice. Abortions were legalized in India in 1971 though there is no sanction for selective abortion of female foetuses after sex-determination tests. The history of amniocentesis tests in India can be traced back to 1974 when the Human Cytogenetic Unit at the All India Institute of Medical Sciences, Delhi, began these tests on a commercial basis. This was stopped at the behest of the Indian Council of Medical Research a year later. In Bombay, the Institute for Research in Reproduction also ceased such tests, as did the JJ group of hospitals in 1979 after a barrage of protests.

The real awakening against the test among women's organizations in the country was spurred by a poster which said "Better Rs.500 now than Rs.5 lakhs later". It was directly asking parents to get the female foetuses aborted after an SD test to avoid the expense of a dowry. The hospitals in some places which were minting money through these tests and abortions, were forced to call a halt to the test and if there were no tests, there could not be any abortions either! Indian couples living in the U.S.A. and the U.K. and other Western countries also came to Bombay and Ahmedabad for these tests because they are banned in the West. "Most of the time patients think that the tests are like blood and urine tests. What they do not realize is that such tests are hazardous because they can lead to deformities and injuries to the foetus" says Dr.Lata Shah.

We are a people who kill female foetus on the one hand and encourage sterile couples to have test-tube babies at great cost on the other. We induce terminally ill patients to volunteer for passive euthanasia but do nothing about the murders of young women for the sake of dowry.

Respect for Indian womanhood and basic human values demand that the Government ban amniocentesis and sex determination tests except where they are conducted in Government supervised hospitals and that too for the sole purpose of detecting genetic disorders as in the West. Considering the profits that are made in the "sex determination business" a legal ban may drive the practice underground and one cannot rule out the possibility of collusion between some unscrupulous medical practitioners and equally unscrupulous officials charged with enforcing the law. This is where women's organisations, ethically minded medical associations and civil liberties and humanitarian groups can all play a part. Since women form 48 per cent of our total population and are a national asset, contributing to a great extent to the process of development, we must give our attention to women at the pre-natal, natal and post natal stages. Tamil Nadu Government has taken many measures to empower women and encourage female child as pearl to the family.

Model Question

Write briefly on female infanticide

LESSON 14

RIGHT TO DISSENT

Right to Dissent is the main Human Right which is discussed in this lesson. Freedom of Speech, Assembly, and Association. The chief instruments of dissent are freedom of speech, freedom of assembly, and freedom of association. Democratic theory proclaims that all people should be free to speak, write, publish, broadcast, assemble demonstrate, picket, and organize on behalf of their beliefs, their opinions and their points of view. A necessary complement to these freedoms is the existence of many independent mass media of communication (newspapers, magazines, radio stations, television networks) with the right freely to convey to the public news of social controversy as it occurs in our legislative bodies and in the community.

Inevitably, such vast freedom carries with it certain risks. Freedom of speech, assembly, and association can be used to propagate lies as well as truths, wrongs as well as rights, and injustice as well as justice. The underlying hope is that given adequate exposure to all sides of an issues, the people will possess enough good sense to make the proper distinctions and judgments.

The real question here is where to put your trust – in the rulers or in the people. In autocratic societies where there is little or no right to dissent, the rulers decide what viewpoints the people may hear and see. The assumption is that the rulers are sufficiently wise and benevolent to make these decisions.

Democratic societies, on the other hand are fearful of reposing so much trust in their leaders. It is not that democratic societies necessarily have blind faith that the masses of people will always choose wisely. It's that they have considerably less faith in anyone else.

Indeed, the power to remove viewpoints from public scrutiny carries with it an enormous risk of tyranny. The exercise of such power can decide the outcome of almost any social conflict. Deny tenants the right to distribute their leaflets and you ensure victory for their landlords. Stop unions from picketing and you guarantee the domination of management. Take opposition viewpoints of television and you handle the next election to the government.

Democratic societies prefer to run the risk of error through the free competition of viewpoints than to run the risk of tyranny through curtailing what the people may hear and see. If there be error, the answer to it is not less communication, but more communication.

This explains why we will often find principled democrats fighting vigorously for the right to dissent even on behalf of those whom they personally dislike. Democrats have made a motto of the famous words of the eighteenth century French writer, Voltarie:

"I may disapprove of what you say, but I will defend to the death your right to say it".

Yet, freedom of speech, assembly, and association cannot be absolute and unlimited.

Some controls under some circumstances are necessary and inevitable. As a great judge once wisely counseled us, there can be no freedom of speech falsely to shout "fire" in crowded theatre. Moreover, freedom of assembly cannot mean the right to conduct a noisy parade in residential neighbourhood at 4 O' clock in the morning. And freedom of association cannot include the creation of conspiracies to commit criminal offences.

As it happens, society today, there are a number of laws which restrict freedom of speech, assembly and association. Defamation laws enable people to sue and recover damages from those whose words and publications have falsely maligned them. Under the Criminal Code, it is unlawful to promote hatred of any group because of race, creed, or ethnicity; to counsel the commission of a criminal offence; to cause a disturbance at or near a public place by shouting, singing, swearing, etc. Moreover, in many municipalities, permission must be secured from police authorities in order to conduct parades and demonstrations in the streets.

Laws which regulate freedom of speech, assembly, and association. Rather, it is our function to declare how essential these freedoms are and to recognize that they must inevitably be subject to some limitations. The problem, at any point, is to decide whether the harm caused by the existence of the freedom is substantial enough to warrant an abridgement of the freedom – with all the dangers that abridgement involves.

Model Question

Describe the limitations of Right to speech.

LESSON 15

RIGHTS OF SCHEDULED CASTES AND SCHEDULED TRIBES

According to scholar statesman and the late President S.Radhakrishnan, Manu had based his chaturvarna concept of priest teacher, warrior, businessman and worker with a view to accord equal status, equal prestige and equal value to all sections of the society but winds of change and waves of history turned function based Chaturvarna into heredity based the jajmani system that ultimately turned out to be the greatest curse for the country. Of all the sections the shudras, once put on the lowest rung of the social hierarchy were destined to suffer all types of deprivations. These untouchables and depressed classes came to be designated as Scheduled Castes – the term appeared for the first time in the Government of India Act, 1935. In April 1936, the British Government had issued the Government of India (Scheduled Castes) order, 1936 specifying certain castes, races and tribes as scheduled castes in the then provinces of Assam, Bengal, Bihar, Bombay, Central provinces and Berar, Madras, Orissa, Punjab and United Provinces.

Under Article 341 of the Constitution, certain backward classes/communities suffering from untouchability and social disabilities were declared as scheduled castes. After the Constitution came into force, the list of scheduled castes was notified under the Constitution (Scheduled Castes) Order 1950 by the President of India. So far 15 President Orders specifying Scheduled Castes and Scheduled Tribes for various states and Union territories have been issued. Any amendment to the existing list of scheduled castes/scheduled tribes is made by a Parliamentary enactment. On the part of the Government, no definition of a Scheduled caste or a Tribe has even been given. Only at the pleasure of authorities a community becomes a Scheduled Caste or a Scheduled Tribe. No wonder, a community having some socio-cultural-economic characteristics is a Scheduled Caste or a Tribe in one state / UT but not in other. Not only that on purely political considerations, some communities on the advice of some sociologists have been 'scheduled' to draw benefits whereas the Ladakhis, totally similar to their neighbours in Himachal Pradesh have ultimately resorted to violence to get themselves scheduled. By 1971 there were 612 Scheduled Castes in India.

STATE OF SCHEDULED CASTES

According to 1981 census, the Scheduled Castes and Scheduled Tribes constitute 15.47 per cent and 7.85 respectively of the total population of the country. In other words, Harijans and 'Girijans' that is, Tribes, constitute about one fourth of the country's population. The major concentration of Scheduled Castes is, in Uttar Pradesh (22.3 per cent) followed by West Bengal (11.46%), Bihar (9.8%), Tamil Nadu (8.48%), Andhra Pradesh (7.6%), Madhya Pradesh (7.02%), Rajasthan (5.57%), Karnataka (5.34%), Punjab (4.31%), Maharashtra (4.28%), Kerala (2.43%), Haryana (2.35%), Gujarat (2.33%), Himachal Pradesh (1.01%), Jammu and Kashmir (0.47%), Tripura (0.30%), Sikkim (0.02%) and Manipur (0.02%).

In Nagaland, Andaman and Nikobar Islands and Lakshadeep there are no Scheduled Castes and in Meghalaya, Arunachal Pradesh, Dadra and Nagar Haveli and Mizoram their number is very insignificant.

An overwhelming number of the Harijans (88 per cent) resides in the countryside. Although until recent past, a Harijan dreaded to move out of his moorings, but owing to agricultural development (particularly the Green Revolution) in some parts of the country, industrial progress in certain regions, rapidly expanding urbanization and the breaking of the jajmani system as also the steeply declining demand for rural goods prepared by artisans, the Harijans have become quite a mobile class. About 52 per cent of all scheduled caste workers are agricultural labourers and 28 per cent are small and marginal farmers and share croppers. In the western part of the country almost all weavers are from Scheduled Castes and in the eastern part of the country almost all fishermen are from the Scheduled Castes. Unclean occupations like scavenging, flaying, tanning etc. are almost entirely left to the Scheduled Castes. In the urban areas a substantial proportion of rickshaw pullers, cart pullers, construction labourers, beedi workers and other unorganized non-agricultural wage labourers and civic sanitation workers belong to Scheduled Castes. They are amongst the poorest of those who live below the poverty line.

Although there are have-nots and downtrodden among other sections of the populace, the major chunk of the deprived section of India's population that is living in abject poverty, abnormal ignorance and unparllelled superstition comes from the Scheduled Castes. Among deprived people too, it was the Harijans who for centuries lived practically the life of servitude, humiliation and utter helplessness.

Atrocities heaped on the Dalits and the downtrodden by our society and state is bad enough. What is worse is not even compensation is provided to the victims or the perpetrators of such heinous crime are arrested. This is due to the historical hatred and abhorrence the upper castes and upper classes have towards the Dalits. Hate is usually understood as dislike to someone intensely or to maintain an inimical relationship with someone. But this sentiment of dislike in the course of time takes a deep sense of detestation and disapproval. According to the Penguin Dictionary of Psychology: "Hatred is a deep, enduring, intense emotion expressing animosity, anger and hostility towards a person or a group or an object". Hatred usually assumes the desire to harm or cause pain to the object or the emotion and feelings of pleasure from the objects misfortunes (1985). Since human beings have to interact with each other, day after day, in course of social interaction, hatred takes the form of destruction and devastation.

The heart of the matter is that the lower castes are considered to be antithesis of the upper caste. The very presence of the Dalits and the downtrodden seem to challenge the unequal and inhuman social order. Moreover, the Dalits today more than ever are challenging the very foundation on which the Indian state and society is established. As they are becoming acutely aware of the cumulative effects of poverty, penury, resourcelessness and powerlessness of the entire Dalit community, they are demanding for equal share in all walks of life. They are also becoming conscious of the fact that they are the real producers, creators, and upholders of all that is social and economic. But they are denied any share from these productions. Hence, they are defying all that was thought to be social; religious, traditional and national. This force and power has led them to raise questions about the very legitimacy and validity of all the power being concentrated in the hands of the upper castes and class. This has sent danger signal to the upper castes and has sounded death bell to the caste system. Hence, the Dalits are subjected to ruthless and brutal oppression, exploitation and atrocities.

The murder and the mayhem that is unleashed on the Dalits are irrespective of the fact that there are Constitutional injunctions against indulging in exploitation of the Dalits. Even a cursory glance at the innumerable legal provisions enacted for the protection of the Dalits and the downtrodden unravel the fact that even if part of these provisions are executed in favour of the Dalits, these discriminations will come to a grinding halt. But a fundamental factor that needs to be highlighted here is that it is inspite of these provisions atrocities are

committed on the Dalits. The legal and Constitutional provisions seem to all the more provide avenues for the upper castes to abuse and to oppress the Dalits. Taken together, an all round attempt is made to deny the Dalits any rights as human beings of the society and as citizens of the country.

It is imperative at this stage to briefly examine some of the Constitutional provisions, especially enlisted for the Dalits. Article 15[2] No citizen shall, on the grounds only of religion race, caste, sex, place of birth or any of them, be subject to any disability, liability, restrictions or condition with regard to

(a) access to shops, public restaurants, hotels and places of public entertainment: or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

It is also significant to recognize that the Constitutional provisions did not only speak against the restrictions imposed on the Dalits, it also enjoined upon the government to make provisions for special treatment. The Constitution (First Amendment) Act, 1951, directed the government.

"Nothing shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes".

Under the special enactments we can identify two legal provisions associated with the Dalits and the Tribals. The first one is the Protection of Civil Rights Act, 1955. Historically speaking, the Untouchability (Offences) Act 1955 was amended and rechristened in 1976 as the Protection of Civil Rights Act, 1955. Further, under the revised Act, the practice of untouchability was made both cognizable and non-compoundable and stricter and stringent punishments were provided for the offences. This special Act provides for protection of the Dalits from any kind of denial of civil rights.

The second special provision for the Dalits is the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Interestingly, the nation took 42 years to come to terms with the fact that with all the Constitutional provisions for the protection of rights of the Dalits, murderous crimes are committed against them. It was also realized that even after the enactment of the Protection of Civil Rights Act, 1955 atrocities and discriminations against the Dalits go unabated. Hence, the rulers of this country woke up after 42 years of independence and enacted another stern and strict law under the name The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

It is significant to note that this Act for the first time legally defined the atrocities committed on the Dalits and the Tribals and also ensured punishment. Interestingly, over 18 Acts are considered as offensive towards the Dalits and Tribals and called for penalties. Further, the Act in addition to the punishment enshrined in the Indian Penal Code also made the following as obligatory: forfeiting of property, externment and collective punitive fine. Going a step, this Act made special provisions for Special Courts and Special Prosecutors for expeditious disposal of cases so that the victim of caste oppression is not harassed further and that the entire Dalit community finds scales in the existing legal system. But in reality, most of these punishments and the provisions remained on paper and did not really lead to the protection of Dalit human rights. In the ultimate analysis, it can be stated that many years of independence has made this amply clear that the human rights provided for the Dalits in the Constitution are more for violation than for execution.

CONSTITUTIONAL SAFEGUARDS

The Constitution prescribes protection and safeguards for the scheduled castes and other weaker sections either specially or by way of insisting on their general rights as citizens with the object of promoting their educational and economic interests and of removing the social disabilities. The main safeguards are:

i) the abolition of untouchability and the forbidding of its practice in any form (Art, 17).

ii) the promotion of their educational and economic interests and their protection from social injustice and all forms of exploitation (Art, 46).

iii) the throwing open by law of Hindu religious institutions of a public character to all classes and sections of Hindus (Art, 25b).

iv) to removal of any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partially out of state funds or dedicated to the use of the general public (Art, 15 (2).

v) the curtailment by law in the interest of any scheduled tribes of the general rights of all citizens to move freely, settle in and acquire property (Art, 19 [5]).

vi) the forbidding or any denial of admission to educational institutions maintained by the state or receiving grant out of State funds (Art, 29[2]).

vii) permitting the State to make reservation for the backward classes in public services in case of inadequate representations and requiring the State to consider the claims for the scheduled castes and scheduled tribes in the making of appointments to public services (Art, 16 and 335).

viii) special representation in the Lok Sabha and the State Vidhan Sabhas to scheduled castes and tribes (Article 330, 332 and 334).

ix) the setting up of Tribes Advisory Councils and separate departments in the State and the appointment of a special officer at the centre to promote their welfare and safeguard their interests (Art, 164 and 338 and Fifth Schedule).

x) special provision for the administration and control of scheduled and tribes areas (Article 244 and Fifth and Sixth schedules); and

XI) National Scheduled Caste Commission is constituted.

There are cases that the innumerable Dalit human rights violations that go on unabated even today. These cases indicate the level and the intensity of violation of Constitutional rights of the Dalits in India. One should not think that these are the atrocities committed on the Dalits. But these are the violation of human rights that are reported but there are many that go unreported or even if reported they are not pursued by the police and the administration.

First and foremost, the so called developed states whether educationally developed for example Kerala or economically developed for example Punjab are also states where Dalit human rights are violated as a norm than exception. Interestingly, even states like Himachal Pradesh which is usually considered to be a peace-loving state, the Dalits are subjected to inhuman treatments. Also, it is not only the age-old upper castes who discriminate against the Dalits but also the backward castes especially the upper backward castes who deny the Dalit their basic human rights and Constitutional rights.

The police and the administration have under criticism as to maintain the upper caste bias towards the Dalits. It is they who are supposed to be the protectors of the Dalits from atrocities and discriminations. It is also significant to note that all the political parties on the one hand use the Dalits as vote bank, but leaders cutting across political parties have contributed immensely in the denial of human rights to the Dalits.

The level and intensity of denial of human rights to the Dalits all over India is decreasing The area of denial of human and Constitutional rights of the Dalits is more in the special protection enshrined in the Constitution and in the Amendments made at regular intervals. The foremost is being, that there is decrease in the atrocities committed against the Dalits. But it is warned that the history of the Indian society and state unravels the fact that the rights of the Dalits are denied in the most subtle and systematic manner. It must be avoided.

Right to Development

Right to Development is emerged to-day as an important right. The strong link between human rights and development has figured prominently in United Nations deliberations for more than half a century. In 1986, the right to development was made explicit in the Declaration on the Right to Development.

The Declaration on the Right to Development states that "the right to development is an inalienable human right by virtue of which every human person and all people are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedom can be fully realised." The world Conference on Human Rights, held in Vienna in 1993, reaffirmed by consensus the right to development as a universal and inalienable right and an integral part of fundamental human rights.

Bearing in mind the purpose and principle of the Charter of the United Nations relating to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

Recognizing that development is a comprehensive economic, social, cultural and political process, which aims at the contrast improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting there from.

Considering that under the provisions of the Universal Declaration of Human Rights everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realised.

Aware that efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order.

Confirming that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations.

Proclaims the following Declaration on the Right to Development.

Article 1

1. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy, economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised.

2. The human right to development also implies the full realisation of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Convenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

Article 2

1. The human person is the central subject of development and should be the active participant and beneficiary of the right to development.

2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.

3. States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.

Article 3

1. States have the primary responsibility for the creation of national and international conditions favourable to the realisation of the right to development

2. The realisation of the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.

3. States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should realise their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.

Article 4

1. States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realisation of the right to development.

2. Sustained action is required to promote more rapid development of developing countries. As a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries, with appropriate means and facilities to foster their comprehensive development.

Article 5

States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognise the fundamental right of peoples to self-determination.

Article 6

1. All States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion.

2. All Human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political economic, social and cultural rights.

3. States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic social and cultural rights.

Article 7

All States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measure are used for comprehensive development, in particular that of the developing countries.

Article 8

1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices.

2. States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.

Article 9

1. All the aspects of the right to development set forth in the present Declaration are indivisible and interdependent and each of them should be considered in the context of the whole.

2. Nothing in the present Declaration shall be construed as being contrary to the purposes and principles of the United Nations, or as implying that any State, group or person has a right to engage in any activity or to perform any act aimed at the violation of the rights set forth in the Universal Declaration of Human Rights and in the International Covenants on Human Rights.

Article 10

Steps should be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.

The Role of the High Commissioner for Human Rights

General Assembly resolution 48/ 141 of 1993 - the resolution establishing the Office and terms of reference of the High Commissioner for Human Rights - directly mandates the High Commissioner to play an important role in the realisation of the right to development.

The responsibilities of the High Commissioner include, according to the resolution, promoting and protecting the realization of the right to development and enhancing support from relevant bodies of the United Nation System for that purpose.

The High Commissioner accordingly gives high priority to the right to development and it is a core component of many of her Office's strategies, plans, policies and operational activities.

Indeed, given the close relationship between the promotion and protection of the right to development and all other civil, cultural, economic, political and social rights, many of the Office's activities may be viewed as part of an overall strategy aimed at the realization of the right to development.

In its resolution 1998/72, the Commission on Human Rights invited the United Nations High Commissioner for Human Rights to present a report to the Commission each year for the duration of the follow-up mechanism established pursuant to paragraph 10 of that resolution and to provide interim reports to the open-ended working group on the right to development, in each case covering:

(a) The activities of the Office relating to the implementation of the right to development as contained in the *High Commissioner' Mandate;*

(b) The implementation of resolutions of the Commission on Human Rights and the General Assembly with regard to the right to development.

(c) Inter-agency co-operation with the United Nations system for the implementation of relevant resolution of the Commission in that regard.

Model Question

Describe the rights of Scheduled Caste and Scheduled Tribes.

lesson 16

WOMEN RIGHTS

Abuses against women are relentless, systematic, and widely tolerated, if not explicitly condoned. Violence and discrimination against women are global social epidemics, notwithstanding the very real progress of the international women's human rights movement in identifying, raising awareness about, and challenging impunity for women's human rights violations.

We live in a world in which women do not have basic control over what happens to their bodies. Millions of women and girls are forced to marry and have sex with men they do not desire. Women are unable to depend on the government to protect them from physical violence in the home, with sometimes fatal consequences, including increased risk of HIV/ AIDS infection. Women in state custody face sexual assault by their jailers. Women are punished for having sex outside of marriage or with a person of their choosing (rather than of their family's choosing). Husbands and other male family members obstruct or dictate women's access to reproductive disadvantaged or marginalized communities for coercive family planning policies.

Our duty as activities is to expose and denounce as human rights violations those practices and policies that silence and subordinate women. We reject specific legal, cultural, or religious practices by which women are systematically discriminated against, excluded from political participation and public life, segregated in their daily lives, raped in armed conflict, beaten in their homes, denied equal divorce or inheritance rights, killed for having sex, forced to marry, assaulted for not conforming to gender norms, and sold into forced labor. Arguments that sustain and excuse these human rights abuses – those of cultural norms, "appropriate" rights for women, or western imperialism – barely disguise their true meaning: that women's lives matter less than men's. Cultural relativism, which argues that there are no universal human rights and that rights are culture-specific and culturally determined, is still a formidable and corrosive challenge to women's rights to equality and dignity in all facets of their lives.

The Women's Rights Division of Human Rights Watch reveals the dehumanization and marginalization of women. We promote women's equal rights and human dignity. The realization of women's rights is a global struggle based on universal human rights and the rule of law. It requires all of us to unite in solidarity to end traditions, practices, and laws that harm women. It is a fight for freedom to be fully and completely human and equal

without apology or permission. Ultimately, the struggle for women's human rights must be about making women's lives matter everywhere all the time. In practice, this means taking action to stop discrimination and violence against women.

Women's Rights the Responsibility of All

The human rights of women and girl child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community. (The Vienna Declaration and Programme of Action Part, 1 Para 18).

Women's Rights

The U.N. Secretary – General noted that domestic violence alone is on the increase. Studies in 10 countries, he said, have found that between 17 percent and 38 percent of women have suffered physical assaults by a partner. In the core document of the Beijing Conference, Governments declared that "violence against women constitutes a violation of basic human rights and is an obstacle to the achievement of the objectives of equality, development and peace". Until that point, most governments tended to regard violence against women throughout the world, the Commission on Human Rights adopted resolution 1994/95 of 4 March 1994, in which it decided to appoint the special Rapporteur on violence against women, including its causes and consequences.

Some females fall prey to violence before they are born. When expectant parents about their unborn daughters, hoping for sons instead. In other societies, girls are subjected to such traditional practices as circumcision, which leave them maimed and traumatized. In others, they are compelled to marry at an early age, before they are physically, mentally or emotionally mature. Women are victims of incest, rape and domestic violence that often lead to trauma, physical handicap or death.

A preliminary report in 1994 by the Special Rapporteur, Ms. Radhika Coomaraswamy, focused on three areas of concern where women are particularly vulnerable: in the family (including domestic violence, traditional practices, infanticide) in the community (including rape, sexual assault, commercialized violence such as trafficking in women, labor exploitation, female migrant works (etc.) and by the State (including violence against women in detention as well as violence against women in situations of armed conflict and against refugee women).

The Declaration of the Elimination of Violence against Women is the first international human rights instrument.

The Declaration provides a definition of gender based abuse, calling it "any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".

The definition is amplified in article 2 of the Declaration, which identifies three areas in which violence commonly takes place:

- Physical, sexual and psychological violence that occurs in the family, including battering; sexual abuse of female children in the household; dowry related violence; marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence; and violence related to exploitation.
- Physical, sexual and psychological violence that occurs with in the general community, including rape; sexual abuse; sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women; and forced prostitution; and
- Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

The World Conference on Human Rights, held in Vienna in June 1993, laid extensive groundwork for eliminating violence against women. In the Vienna Declaration and Progarmme of Action, governments declared that the United Nations systems and Member States should work towards the elimination of violence against women in public and private life; of all forms of sexual harassment, exploitation and trafficking in women; of gender bias in the administration of justice; and of any conflicts arising between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism.

Violence against women in the family occurs in developed and developing countries alike. It has long been considered a private matter by bystanders including neighbors, the community and government. But such private matters have a tendency to become public tragedies. In the United States, a woman is beaten every 18 minutes. Indeed, domestic violence is the leading cause of injury among women of reproductive age in the United States. Between 22 and 35 per cent of women who visit emergency rooms are there for that reason. In many countries, women fall victim to traditional practices that violate their human rights. The persistence of the problem has much to do with the fact that most of these physically and psychologically harmful customs are deeply rooted in the tradition and culture of society.

According to the World Health Organization 85 million to 115 million girls and women in the population have undergone some form of female genital mutilation and suffer from its adverse health effects. In some countries, weddings are preceded by the payment of an agreed upon dowry by the bride's family. Failure to pay the dowry can lead to violence. Early marriage, especially without the consent of the girl, is another form of human rights violation. Early marriage followed by multiple pregnancies can affect the health of women for life.

Pornography

Another concern highlighted in the Special Rapporteur's report is pornography, which represents a form of violence against women that "glamorizes the degradation and maltreatment of women and asserts their subordinate function as mere receptacles for male lust". Violence against women by the very people who are supposed to protect them members of the law enforcement and criminal justice systems is widespread. Women are physically or verbally abused; they also suffer sexual and physical torture. According to Amnestly International, thousands of women held in custody are routinely raped in police detention centers worldwide. The report of the Special Rapporteur underlines the necessity for States to prosecute those accused of abusing women while in detention and to hold them accountable for their actions.

Rape has been widely used as a weapon of war whenever armed conflicts arise between different parties. It has been used all over the world; in Chiapas Mexico, in Rwanda, in Kuwait, in Haiti, in Colombia.

Women and girl children are frequently victims of gang rape committed by soldiers from all sides of a conflict. Such acts are done mainly to trample the dignity of the victims. Rape has been used to reinforce the policy of ethnic cleansing in the war that has been tearing apart the former Yugoslavia.

Women and children form the great majority of refugee populations all over the world and are especially vulnerable to violence and exploitation. In refugee camps, they are raped and abused by military and immigration personnel, bandit group's male refuges and rival ethnic groups. They are also forced into prostitution.

In her report, the Special Rapporteur proposes the following measures to be taken for the protection of women and girls in refugee camps: improvement of security, deployment of trained female officers at all points of the refugees journey, participation of women in organizational structures of the camps and prosecution of government and military personnel responsible for abuse against refugee women.

Employment

Women earn 50-80% of what men earn; for the same kind of work. The lower end is seen among women workers in Korea, Japan, Singapore and India. The gap between men's wages and those of women in developed countries is usually between 10% and 30%. Among the developing countries, Sri Lanka appears to have gone the farthest in gender equality in wages - female wages are 96% of men's wages.

ILO says that while all over the world the participation of women in visible work is increasing, female wages remain less than that of the men, job quality is deteriorating and a femininsation of poverty is taking place. Women's work is valued less than that of men. The number of women working in factories form 11.33% of total women labourers in India So also the women as weavers, tailors, sweepers, vendors etc. undergo a number of hardships in carrying on their work.

Protection of Rural women workers

There is no unanimous opinion about the protection of the rights of agricultural workers, especially rural women workers. The rural rich have always succeeded in sabotaging any attempt made to protect the agricultural women workers. So there arises the need for the introduction of special legislations to protect the rights of the most exploited section of the labour force in India. Women's work in agriculture is only supplementary, as the agricultural workers usually be men But the women agricultural workers-out-number men and in almost all states of India, more than women workers are joining the agricultural work force than man. During the decade 1981 - 1991 the number of women workers in agriculture was 28.3 millions. 66% of these women workers belong either to the SCs, or STs, and a vast majority of them are landless.

In rural areas women have to walk miles together to fetch water. The higher caste people put hurdles to women of lower castes. Sometimes the control of water supply by the higher caste landlords has been an instrument to get free labour from the women who come to collect water. If at all there were tube wells in Dalits' areas, they are putout of order so, for a pot of water the rural women are forced to attend some domestic works in the house of landlords. In some cases they have to work freely for hours together for a pot of water. Rural women are also raped and put into sexual assaults by landlord gangs. Even if they want to report the crime, there is no support for the affected women. Here the anti-rape laws are quite silent. Thus the list of crimes against rural women is a lengthy one.

Convention concerning the Employment of Women and Equal Remuneration for Men and Women Workers for work of equal value (1951) and the Convention concerning Discrimination in Respect of Employment and occupation (1958) and UNESCO's Convention against Discrimination in Education (1960) and the Mexico Declaration all emphasized the equality of women.

India began to feel since 1975, the need of organising public opinion regard to the problems of women As a result, Indian women got the incorporation of a new Ministry relating to women are

1) Child Marriage Resistant Act. 1929
2) Prohibition of Sati Act 1829, Sati Prevention Act (1987)
3) The Hindu Marriage Act 1955,
4) Hindu Adoption and Maintenance Act 1956,
5) Immoral Traffic Prevention Act 1956,
6) Hindu Succession Act 1956,
7) The Dowry Prohibition Act 1961,
8) The Maternity Benefits Act 1961,
9) Muslim Protection of Rights on Divorce Act 1986
10) National Commission for women and minorities etc.

Indian Constitution provides equality before the law (Article 14), shall not discriminate any citizen on the ground of sex (Article 15), equal opportunity for all (Article 16), equal justice (Article 38), equal pay for equal work for both men and women (Article 39), property right (Article 300A) etc

Violation of women's rights has been a world wide phenomenon. Almost all the countries of the world have not been free from this crime. Every organisation, both private and public must have a complain cell that would sympathetically examine complaints of economic disparities Equality in all stages must be installed without any bias and discrimination. Though the position of Indian women had improved since independence, it was not upto the level of expectations. It is not enough to provide and guarantee rights. Effective action and achievement should be the aim, goal and target in a democracy Every one should realise it in reality and work for integrity.

Model Question

Explain the rights of women in India.

LESSON 17

CHILDREN AND HUMAN RIGHTS

Under the UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948, Article 25(2) provides that "Motherhood and childhood are entitled to special care and assistance, whether born in or out of wedlock, shall enjoy the same social protection.

Under THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1976.

Children and young persons should be protected from economic and social exploitation Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

2. The State Parties to the present Covenant recognize that with a view to achieving the full realization of right:

(a) Primary education shall be compulsory and available free to all.

(b) Secondary education in its different forms, including technical vocational secondary education shall be made generally available and accessible to all, by every appropriate means, and in particular by the progressive introduction of free education.

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed

UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND (UNICEF)

The United Nations Organisation established / founded this Fund on December 11, 1948 for providing assistance to children and adolescents of the countries which had been victims of aggression It provided them without any discrimination as to race, caste, sex, national status or political belief. On October 6, 1953 the General Assembly decided to utilize this Fund for assistance of the children of developing countries

The name of this Fund was also changed as United Nations Children's Fund instead of the United Nations International Children's Emergency Fund, but its initials former name UNICEF was retained.

The Economic and Social Council of the United Nations supervises its work and also reviews it from time to time The year 1979 as the Children Year in the World (a) for providing a framework for advocacy on behalf of children and for enhancing the awareness of the special need of children on the part of the decision makers and the public and (b) for promoting recognition of the fact that programmes for children should be an integral part of Economic and Social Development plans, with a view to achieving, in both the long term and short term, sustained activities for the benefit of children at the national and international level

This International Year of Child, 1979, was observed as the twentieth anniversary of the adoption of 1959 Declaration of the Rights of Child. The UNICEF provided the facility for celebration of this Year of Children at national, regional and international levels throughout the world with great enthusiasm and awakening on the subject.

INTERNATIONAL ATTEMPTS FOR ADOPTING RIGHTS OF CHILD UPTO INTERNATIONAL CONVENTION OF THE RIGHTS OF CHILD, 1990.

The protection of children's rights was first considered at the international level in 1934 when the Geneva Declaration of the Rights of the Child was adopted by the League of Nations Thereafter the Declarations of United Nations came On 10th December, 1948, the Universal Declaration of Human Rights were adopted which contained the material rights of the children. Then on November 20, 1959 the United Nations adopted another Declaration on the Rights of Child, specifically relating to children. In confirmation with this Declaration and as a formal implementation the United Nations celebrated the year 1979 as the Children's Year throughout the World at national, regional and international levels, in the International Covenant on Economic, Social and Cultural Rights also special attention was drawn on the rights of children Similarly, in the International Covenant on Civil and Political Rights as well the rights of children were reiterated

Children Rights under Indian Constitution

Article 24 prohibits employment of a child below the age of fourteen years in any factory or mine or its engagement in any other hazardous employment

Article 39, clauses (e) and (f) provide that the State in particular, direct its policy towards securing (e) that the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age of strength;

(f) That children are given opportunities and facilities to develop in healthy manner and in conditions of freedom and dignity and the childhood and youth are protected against exploitation against moral and material abandonment.

Article 45 provides for free and compulsory education for children, that the State shall endeavor to provide within a period of ten years from the commencement of this constitution, for free and compulsory education, for all children until they complete the age of fourteen years.

Even before the enforcement of the Constitution, the Employment of Chidren Act, 1938 ensure protection of children from being exploited in certain circumstances. This Act prohibited the employment of children below twelve years in any workshop where the process of bidi-manufacturing and wood cleaning were carried on. The Act also prohibited children below fifteen years their employment-(a) in any occupation connected with the transportation of passengers, good, or mails by railways or, (b) in any occupation involving the handling of goods within the limit of any port.

The Child Labour (protection and Regulation) Act,1986 replaced the aforesaid former Act.

The Act also prohibits the employment of children below the age of fourteen years in the processes of bidi-making, carpet weaving, cement manufacturing, including bagging of cement, explosives and fire-works, mica-cutting and splitting, shellac manufacture, soap manufacture, and training, buildings and construction industry. But workshops where any process in carried on by occupier with the aid of his family and such schools which are established from application of the Act.

The Children (pledging of labour) Act, 1933

The Royal Commission of Labour found evidence in such widely separated areas a Amristar, Ahamadabad and Madras of the practice of pledging child labour, that is, the taking of advances by parents of guardians on agreements, written or oral, pledging the labour of their children. In some cases the children so pledged were subjected particularly to unsatisfactory working conditions. The Commission considered that the State would be

justified in adopting strong measures to eradicate the evil, and this Act was brought to do so by imposing penalties on parents by agreements pledging the labour of children and of personal knowing employing children whose labour is so pledged.

Factories Act, 1948

Under section 2 "Young Person" as defined to mean a person who is either a child or an adolescent.

Section 22(2) prohibits a child to be allowed to do certain works It provides that no women or young person shall be allowed to clean, lubricate, or adjust any part of prime mover or of any transmission machinery

Section 23 prohibits employment of young person on dangerous machines that (1) No young shall be required or allowed to work at any machine to which this section applied

Section 27 prohibits employment of women and children near cotton openers, that no women or child shall be employed in any art of a factory for pressing cotton in which a cotton-opener is at work.

Section 71 provides for working hours for children that no child shall be employment or permitted to work in any factory (a) for more than four and half hours in any day; (b) he shall not be allowed to work in the night for any time the period of work of all children employed in a factory shall be limited to two shifts.

Section 73 requires register of children to be maintained about child workers to be available to the Inspector at all times during working hours, or when any work is being carried in a factory, showing –

(a) The name of each child worker in the factory;

(b) The nature of his work;

(c) The group, if any, in which he is included;

(d) Where his group works on shifts, the relay to which he is allotted; and

(e) The number of his certificate of fitness granted under Section 69.

a. The section further requires that no child worker shall be required or allowed to work in any factory unless his name and other particulars have been entrees in the register of child workers.

THE MINES ACT, 1952

In the Bill it was proposed to prohibit after a certain date to be notified by the Central Government the presence of children in any part of a mine where operations connected with, or incidental to, mining process are being carried on. The intention was that the presence of children at mines should be prohibited as soon as arrangements for provision of elementary educated can be made in Collieries.

MERCHANT SHIPPING ACT, 1958

Section 109 of this Act prohibits employment of children to be engaged or carried to sea to work in any capacity in any ship.

BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976

The Act was brought to Article 23 of the Constitution, which prohibits traffic in human beings and beggar and other similar forms of forced labour. The object of this Act is to strike against the system of bonded labour which has been a shameful scar on the Indian social scene for decades and which has continued to disfigure the life of the nation even after independence. This Act has been brought in compliance with Article 23 of the Constitution. The object of this Act is to check the exploitation of the weaker section of people.

Model Question

Discuss the rights of children

LESSON – 18

REFUGEES AND DISPLACED PERSON

The refugees may be defined a person or person who have left their homeland or place or residence due to unavoidable and oppressive circumstances and are not prepared now to go back to their homeland or original place of residence.

A refugee is some one with a well- founded fear of persecution on the basis of his or her race, religion, nationality, membership in a particular social group or political opinion, who is outside of his or her country of nationality and unable or unwilling to return. Refugees are forced from their countries by war, civil conflict, political strife or gross human rights abuses. There were an estimated 14.9 million refugees in the world in 2001 – people who had crossed an international boarded to seek safety – and at least 22 million internally displaced person (IDPs) who had been uprooted within their own countries.

Enshrined in Article 14 of the 1948 Universal Declaration of Human Rights is the right "to seek and to enjoy in other countries asylum from persecution." This principle recognizes that victims of human rights abuse must be able to leave their country freely and to seek refuge elsewhere. Governments frequently see refugees as a threat or a burden, refusing to respect this core principle of human rights. The global refugee crisis affects every continent and almost every country. In 2001, 78 percent of all refugees came from 10 areas: Afghanistan, Angola, Burma, Burundi, Congo-kinshasa, Entreat, Iraq the Palestinian territories, Somalia and sudan Palestinians are the world's oldest and largest refugee population, and make up more than one fourth of all refugees. Asia hosts 45 percent of all refugees, followed by Africa (30 percent), Europe (19 percent) and North America (5 percent)

Throughout history, people have fled their homes to escape persecution. In the after math of world War II, the international community included the right to asylum in the 1948 Universal Declaration of Human Rights. In 1950, the office of the United Nations High Commissioner for Refugees (UNHCR) was created to protect and assist refugees, and in 1951, the United Nations adopted the convention to the status of refugees, a legally binding treaty that, by February 2002, had been ratified by 140 countries.

In the past years, states have largely regressed in their commitment to protect refugees, with the wealthy industrialized states of Europe, North America and Australia – which first established the international refugee protection system – adopting particularly hostile and restrictive policies. Governments have subjected refugees to arbitrary arrest

denial of social and economic rights and closed borders. In the worst cases, the most fundamental principle of refugee protection, more foulement, is violated, and refugee are forcibly returned to countries where they face persecution. Since September 11, 2001, many countries have pushed through emergency anti – terrorism legislation that curtails the rights of refugees.

Human rights watch believes the right to asylum is a matter of life and death and cannot be compromised. It works to stop human rights abuses in countries around the world. It studies the root causes that force people to flee and also advocate for greater protection for refugees and IDPs and for an end to the abuses they suffer when they reach supposed safety. Human rights watch calls on the United Nations and on governments everywhere to uphold their obligation to protect refugees and to respect their rights – regardless of where they are from or where they seek refuge.

Russian confederation etc, the High commissioner has sent assistance measures to the refuges who may be called displaced persons, on the ground of humanity

Origin and development or refugee international law

The League of Nations for the first time appointed a High Commissioner of Russian Refugees in 1921. The decision for such appointment was taken by the League on June 27, 1921. The High commission was appointed to coordinate the action taken in different countries or the problem of refugees.

The High Commissioner function is,

(i) to decide the legal status of refugees

(j) to organize their repatriation or their allocation to various countries which might be able to receive them and to find means for work for them; and

(iii) to undertake relief work amongst them with the aid of philanthropic societies

This mandate was extended to the Armenian refugees in 1924 and to Assyrian, Assyro-Chaldean and Turkish refugees in 1928.

Besides, some international instruments were also adopted by the World organisation, the League of Nations, such as the convention relating to the status of refugees, of October, 28, 1993; and similar convention of February 10, 1983, which was adopted regarding the status of refugees from Germany. This convention was signed by 9 states of refugees from

Germany. were Belgium, France and U.K. with certain reservations whereas the convention of 1933 also was signed by 9 states and was ratified by eight states, with certain reservation. These states and Belgium, Bulgaria, Czechoslovakia, Denmark, France, Italy, Norway and U.k

Then the International Organisation, i.e the League of Nations had certainly made great efforts to ascertain the status of refugees and afford protective measures to them. However the international law relating to refugee problem could not gain much impetus beyond the rudimentary stage.

After the end of the second world war, the United Nations was established and form its very inception its attention was drawn to solve the refugee problem since this very problem was the attention was the most gruesome state of affairs created by the second world war after capturing the warmonger countries and their leaders to be tried as international criminals against humanity.

Genocide is the main cause of displacement of minorities or refugees problem

On December 11m, 1946, by unanimous resolution of the General Assembly of the United Nations, it was affirmed that genocide was a "crime under international aw": for which the perpetrators, whether private individuals or public officials were punishable. Thus the genociders or criminals committing genocide in any part of the world are liable to be prosecuted and punished before the international court of justice. Genocide s those acts which are committed with intend to destroy a national, ethical racial or religious group, such as killing or causing serious bodily or mental harm to the members of the group and deliberately inflicting on the group conditions of life calculated to bring about its total or partial destruction. As has been said above that the General Assembly itself had declared genocide to be a crime under international law.

According to Sir Hartely Shawcross "The only real sanction against genocide was war" Five kinds of acts aimed at destroying "a national ethnical, racial or religious group causing them serious bodily or mental harm, deliberately inflicting conditions on the group to bring about its physical destruction, imposing measures to prevent births within the group, and forcibly transferring children from it to another group. Not only genocide itself but also conspiracy or incitement to commit it, as well as attempts to commit genocide and complicit in the crime are punishable under the convention whether they are constitutionally responsible rulers, public officials or private individuals, those guilty of genocides shall be punished according to the convention. The convention came into force on 12th January, 1951.

The United Nations convention of genocide, 1948, makes international crime of acts aimed at destroying in whole or part, a national ethical or racial groups such punishable whether committed by rulers of States, public officials or private individuals.

Since 1965, there has been five instances of genocide of massive ethnic killings in Indonesia against the china in 1965, in Nigeria against the ibos, in 1968, in Pakistan against the Bengalees in 1971. in Barundi against the Hutans in 1972, and in 1972 and in Iraq against the Kurds since 1975. Pakistan Iraq have angered to the Genocide convention.

Establishment of United Nations High Commissioner for refugees (UNCHR)

As has been said above the commission adopted and establishment by the League of Nations, was admitted to the High Commissioner for refugees under the Nations in 1950 by the General Assembly . This establishment was adopted by Resolution No. 428(v) on December 14, 1950.

Acting under the Auspices of the General Assembly of the United Nations, the High Commissioner performs functions relating to rescuer and establishment of the refugees and faces the permanent solution of the problem of refugees. He has to follow the policy decision of the General Assembly and the Economic and Social Council. He has to afford the following protection to the refugees within his jurisdiction.

(i) by making compliances of the International covenents examining their utility and supporting them and also proposing amendments thereto as he finds reasonable and practicable.

(ii) by entering into special contracts with governments in order to improve and reform the position of the refugees

(iii) by assisting in the efforts done in governmental or private capacities by government or different social organizations, in order to give impetus to their safe return to their homelands.

(iv) By getting the refugees entrance in the territory of a state;

(v) by getting the consent of the detaining state authorities for letting the refugees to have assets with them

(vi) by getting the desired information from the state governments of the relevant laws and regulation relating to the refugees their number in the state in which they are living

(vii) by remaining in close contacts with private organizations which are working for the relief of the refugees

viii) by establishing close contracts with the private organizations which are working for the relief adjustment with their refugees activities

ix) besides the above, the High commissioner may perform or do any work for the benefit and adjustment of the refugees for their return to their homeland or resettlement. He will provide for a find to be establish of the moneys be obtained from the refugees or for the refugees from other source and may disturbed the amounts in public agencies for assistance and relief of the refugees. He may appeal to the state government for money for the refuges welfare relief etc without taking any permission from the central government

Selection of the High Commissioner for refugees (UNCHR)

After being nominated by the Secretary General of the United Nations the High Commissioner for refugees is selected by the General Assembly. The conditions of is appointment which is proposed by the Secretary General is approved by the General Assembly. The terms of office is five years. This office is situated in Geneva, Switzerland. Secretary General has an executive committee of the commissioner programme. The committee is organized by various government multiple in number. The committee audits the budget of the high commissioner and gives its advice about the protection and relief of the refugees. It also organizes the conference of the commissioner every year in October in Geneva. It approves the programmes of the High commissioner for the calendar year beginning on 1st January and ending on 31st December There is also standing committee which meets at least four times a year. The protection of refugees is the main cause for the existence of the High commissioner for refugees in the United Nations. The commission invents or discovers permanent solution or relief to the refugee problem.

Model Question

Explain the rights of refugees

Lesson 19

THE NATIONAL HUMAN RIGHTS COMMISSION

The Government of India has passed the Protection of Human Rights Act in 1993 and implemented on 12-10-1993. On the basis of the Act, the National Human Rights Commission was established in 1993.

Constitution of a National Rights Commission

1) The central Government constitute the National Human Rights

2) The Commission consists of the following members a chairperson who has been a Chief Justice of the Supreme Court; one Member who is or has been a judge of the supreme Court, one member who is or has been the Chief Justice of a High Court;

Two members to be appointment from amongst persons having knowledge of or practical experience in matters relating to human rights and the chairperson of the national commission for Minorities, the National Commission for the scheduled Castes and scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission

There shall be a Secretary –General who shall be the Chief Executive officer of the Commission. The headquarters of the commission shall be at Delhi and the commission may, with the previous approval of the Central Government, establish officers at other places in India.

Appointment of Chairperson and other Members

The chairperson and other Members shall be appointed by the President by warrant under his hand and seal. The appointment is made on the recommendation of the Committee.

The Prime Minister is the Chairperson of the Committee. The members are Speaker of the House of the People, Minister in-charge of the Ministry of Home Affairs in the government of India; Leader of the Opposition in the House of the People; Leader of the opposition in the Council of States, Deputy Chairmen of the Council of States.

Provided further that no sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India. Member of the Commission may be removed under the followig conditions.

Subject to the provisions of sub-section 92) the chairperson or any other Member of the Commission shall only be removed from his official by order of the President on the ground of proved misbehavior or incapacity after the Supreme Court, on reference being made o it by the President ,

As an insolvent; engages during his term of office in any paid employment out side the duties of his office; is unfit to continue in office by reason of infirmity of mind or body; is of unsound mind and stands so declared by a competent court; and is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude

Term of office

Chairperson shall hold office for a term of five years or until he attains the age of seventy years, whichever is earlier,

Members shall hold office for a term of five years and shall be eligible for re-appointment for another term of five years. Provided that no member shall hold office after he has attained the age of seventy years.

On ceasing to hold office, a chairperson or a Member shall be ineligible for further employment under the Government of any state.

Member to act as chairperson or to discharge is functions in certain circumstances

In the event of the occurrence of any vacancy in the office of the chairperson by reason of his death, resignation or otherwise, the president may, by notification, authorize one of the members to act as the Chairperson until the appointment of a new chairperson to fill such vacancy and

When the chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the members as the president may, by notification, authorize in these behalf, shall discharge the functions of the Chairperson until the date on which the chairperson resumes his duties.

Procedure of the Commission

The Commission meets at such time and place as the chairperson may think fit; The commission shall regulate its own procedure ; All orders and decision of the commission shall be audited by the secretary general or any other officer of the Commission duly authorized by the chairperson in this behalf.

Staff of the commission

The Central Government shall make available to the commission an officer of the rank of the secretary to the Government of India who shall be the Secretary – General of the commission; and such police and investigative staff under officer not below the rank of a Director general of Police and such other officers and staff as may be necessary for the efficient performance of the function of the Commission. Subject to such rules as may be made by the Central Government in this behalf, the commission may appoint such other administrative, technical and scientific staffs as it may consider necessary.

Functions and powers of the commission

Functions of the Commission

The Commission shall perform all or any of the following functions, namely:

(a) inquire, suo moto or on a petition presented to it by a victim of any person on his behalf, into complaint of

(i) violation of human rights or abetment thereof or

(ii) negligence in the prevention of such violation by a public servant

(b) intervene in any proceedings involving any allegation of violation of human rights pending before a court with the approval of such court;

c) visit, under intimation to the state Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reforming or protection to study the living conditions of the inmates and make recommendations there on;

(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.

(e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommended appropriate remedial measures.

(f) Study treaties and other international instruments on human rights and make recommendations for their effective implementation

(g) undertake and promote research in the field of human rights

(h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(i) encourage the efforts of non- governmental organizations and institutions working in the field of human rights.

(j) such other functions as it may consider necessary for the protection of human rights

Powers relating to inquiries

(1) The Commission has power to inquiring into complaints and have all the powers of a civil court trying a suit under the code of civil procedure, 1908, and in particular in respect of the following matters, namely

a) summoning and enforcing the attendance of witnesses and examine them on oath;

b) discovery and production of any document

c) receiving evidence on affidavits

d) requisitioning any public record or copy thereof from any court or office.

e) issuing commissions for the examination of witness or documents

f) Any other matter which may be prescribed

Investigation Procedure

(1) The commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilize the services of any officer or investigation agency of the Central Government, as he case may be

(2) For the purpose of investigation into any matter pertaining to the inquiry, any officer or agency whose services are utilized subject to the direction

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office

Persons likely to be prejudicially affected to be heard

If, at any stage of the inquiry, the commission

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry;

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence

provided that nothing in this section shall apply where the credit of a witness is being impeached.

Inquiry into complaints

The commission while inquiring into the complaints of violation of human rights may call for information or report from the Central Government or any State Government or any other authority or organization subordinate thereto within such time as may be specific by it. The commission will decide if the information or reports is not received within the time stipulated by the commission, it may proceed to inquire into the complaint on its own;

On receipt of information or report the commission is satisfied either that no further inquiry is required or that required action has been initiated or taken by the concerned government or authority, it may not proceed with the complaint and inform the complaintment accordingly.

Steps after inquiry

The commission may take any of the following steps upon the completion of an inquiry held under this Act namely:

(1) where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by public servant, if any recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the commission may deem fit against the concerned person or persons;

(2) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that court may deem necessary;

(3) recommended to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the commission may consider necessary;

(4) subject to the provisions of clauses (5), provide a copy of the inquiry report to the petitioner or his representative

(5) the commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the commission may allow forward its comments on the report, including the action taken or proposed to be taken thereon, to the commission

(6) the commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any and the action taken or proposed to be taken by the concerned government or authority on the recommendations of the commission.

Procedure with respect to armed forces

(1) Notwithstanding anything containing in this Act, while dealing with complaints violation of human rights by members of the armed forces, the commission shall adopt the following procedure namely.

(a) it may, either on its own motion or on receipt of a petition seek a report from the Central Government

(b) after the receipt of the report, it may either not proceed with the complaint or, as the case may be, make its recommendations to that Government

(2) The Central Government shall inform the commission of the action taken on the recommendations within three months or such further time as the commission may allow.

(3) The commission shall publish its report together with its recommendations made to the Government.

(4) The commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representation

Annual and special reports of the Commission

(1) The commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Central Government and the State Government as the case may be, shall place the annual and special reports of the commission to be before each House of Parliament or the State Legislature respectively as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the commission and the reasons for non- acceptance of the recommendations, if any.

The Committee's recommendations are recommendary and these were taken with keen consideration by the Government.

Model Question

Explain the structure and functions of National Human Rights Commission

Lesson 20

STATE HUMAN RIGHTS COMMISSIONS

State Human Rights Commission is established by the State Government to protect the Human Rights of citizens. It is in operation from 1994 onwards in many States.

Constitution of State Human Rights Commissions

State Governments may constitute State Human rights commissions in their states

(2) The State commission shall consist of

a) a chairperson who has been a chief justice of a High Court

b) one member who is, or has been, a judge of a High Court

c) One Member who is, or has been, a district judge in that state;

d) Two members to be appointed from amongst persons having knowledge of, or practical experience in matters relating to human rights.

(3) There shall be a secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharging such functions of the state commission as it may delegate to him.

(4) The headquarters of the state commission shall be at such place as the state government may by notification, specify

(5) A state commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in list II and List III in the seventh scheduled to the Constitution

Appointment of chairperson and other Members of State Commission

(1) The chairperson and other members shall be appointed by the Governor by warrant under his hand and seal

Provided that every appointement under this sub- section shall be made after obtaining the recommendation of a committee consisting of

(a) the Chief Minister – Chair person

(b) Speaker of the Legislative Assembly – Member

(c) Minister in – charge of the Department of Home, in that state – Member

(d) Leader of the opposition in the Legislative assembly – Member

Provided further that where there is a legislative council in a state, the chairman of that council and the leader of the opposition in that council shall also be members of the committee.

Provided also that no sitting judge of a high court or a sitting (district judge shall be appointed except after consultation with the chief justice of the High Court of the concerned state.

(2) No appointment of chairperson or a member of the state commission shall be invlid merely by reason of any vacancy in the committee.

Removal of a member of the State Commission

The chairperson or any other member of the state commission shall only be removed from his officer by order of the president on the ground of proved misbehaviour or incapacity after the supreme court, on a reference being made to it by the president, has inquiry held in accordance with the procedure prescribed in that behalf by the Supreme court, reported that the chairperson or such other Member, as the case may be, ought on any such ground to be removed

(2) Nowithstanding anything in sub-section(1), the president may be order remove from office the chairperson or any person if the chairperson or such other member, as the case may be

(a) is adjusted an insolvent

(b) engages during his term of office in any paid employment outside the duties of his officer;

C) is unfit to continue in office by reason of infirmity of mind or body (or)

(d) is of unsound mind and stands so declaration by a competent court(or)

(e) is convicted and sentenced to imprisonment for an offence which in the opinion of the president involves moral turpitude

Term of officer Members of the State Human Rights Commission

(1) A person appointed chairperson shall hold officer for a term of five years or until he attains the age of seventy years whichever is earlier

(2) A person appointed as a member shall hold office for a term of fiver years and eligible for re – appointment for another term of five years.

(3) On ceasing to hold officer chairperson or a member shall be ineligible for further employment under government of a state or under the government of India.

Terms and conditions of service of Members of the state commission

The salaries and allowances payable to, and other terms and conditions of service of the members shall be such as may be prescribed by the state government .

Officers and other staff of the State Human Rights Commission

(1) The State Government shall make available to the Commission

(a) an officer not below the rank of a secretary o the state government who shall be the secretary of the state commission; and

(b) such police investigation staff under an officer not below the rank of an inspector general of police and such other officers and staff as may be necessary for the efficient performance of the functions of the state commission

(2) subject to such rules may be made by the state government in this behalf, the State Human Rights Commission may appoint such other administrative, technical and scientific staff as it may consider necessary

Annual and special reports of the State Human Rights Commission

(1) The State commission shall submit an annual report to the government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report

(2) The State government shall cause the annual and special reports of the state commission to be laid before each house of state legislature where it consists f two houses, or where such legislature consists of one house, before that house along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptances of the if any.

Constitutional of special investigation teams

Notwithstanding anything containing in any other law for the time being in force, where the government considers it necessary so to, it may constitute one or more special investigation teams, consisting of such officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violation of human rights

Protection of action taken in good faith

No suit other legal proceedings shall lie against the central government, state government, commission the state commission or any member thereof or any person acting under the direction either of the central government, state government commission or the state commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made there under or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the State Commission of any report paper or proceedings.

Members and officers to be public servants

Every Member of the Commission, State Commission and every officer appointed or authorized by the Commission or the State Commission to exercise functions are deemed to be a public servant.

Model Question

Write briefly on State Human Rights Commission

Model Questions

Answer any five of the following

Time : 3 hrs. Marks : 100

1. Describe the nature and scope of Human Rights.
மனித உரிமைகளின் இயல்பு மற்றும் நோக்கை விவரி

2. Trace the origin of Human Rights
மனித உரிமைகளை தோற்றத்தை வரையறு

3. Analyse the rationale of Human Rights
மனித உரிமைகள் தேவையைப் பகுப்பாய்க

4. Pointout the main theories of Human Rights
மனித உரிமைகள் பற்றிய முக்கியமான கோட்பாடுகளைக் குறிப்பிடுக.

5. Discuss the problems of Child Labour
குழந்தைத் தொழிலாளர் பிரச்சனைகளை விவரி.

6. Bringout the problems of women with regard to their rights.
பெண்கள் உரிமை குறித்த பிரச்சனைகளை வரையறு

7. Write briefly on European Commission on Human Rights.
ஐரோப்பிய மனித உரிமை ஆணையம் பற்றி சுருக்கமாக எழுது

8. Describe the Fundamental Rights of the citizens in India.
இந்தியாவின் குடிமக்களின் அடிப்படை உரிமைகளை விவரி

9 How does Human Rights safeguarded by Directive Principles of State Policy?
வழிபாட்டு நெறிக் கொள்கைகளில் மனித உரிமை எவ்வாறு பாதுகாக்கப்படுகின்றது?

10. Write an essay on Human Rights Commission of India.
இந்திய மனித உரிமைகள் ஆணையம் பற்றி ஒரு கட்டுரை எழுது.